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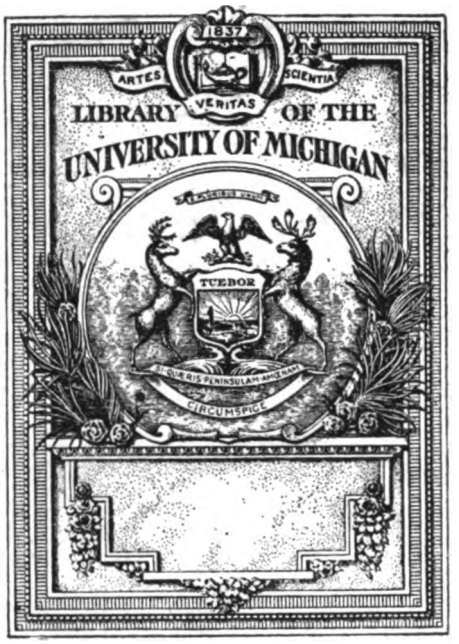

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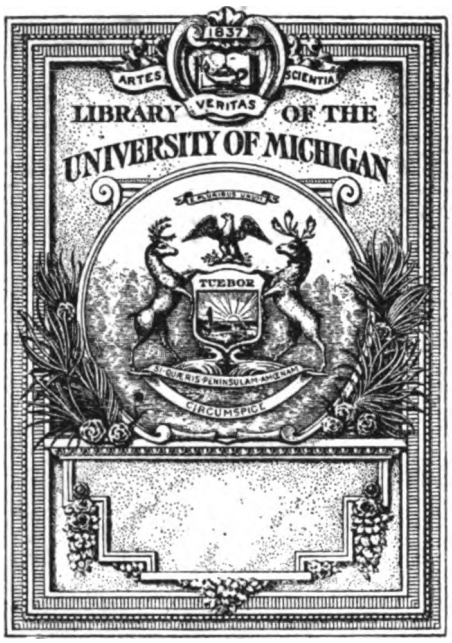

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ECONOMICS

VOLUME 3

ADOLPH C. MILLER

EDITOR

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IN
ECONOMICS

Vol. 3, No. 1, pp. 1-100 June 19, 1913

WOMEN IN TRADE UNIONS IN SAN FRANCISCO

BY

LILLIAN RUTH MATTHEWS

UNIVERSITY OF CALIFORNIA PRESS
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UNIVERSITY OF CALIFORNIA PUBLICATIONS
IN
ECONOMICS

Vol. 3, No. 1, pp. 1-100 June 19, 1913

WOMEN IN TRADE UNIONS IN SAN FRANCISCO*

BY
LILLIAN R. MATTHEWS
Flood Fellow in Economics at the University of California

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* Submitted in partial satisfaction of the requirements for the Degree of Doctor of Philosophy, in the College of Commerce, University of California.

BERKELEY, CALIFORNIA, 1912

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The officials and members of trade-unions have coöperated with the author and have given assistance without which this investigation would have been impossible. My gratitude is especially due to Mrs. Will French, whose introductions to labor officials have made smooth the path of inquiry and whose suggestions as to procedure and interpretation of material have been invaluable. I am indebted to Professor A. C. Miller for his encouragement and his assistance.

INTRODUCTION

Policies concerning the rights of those working for others have been adopted largely on the basis of conclusions reached by discussion from the outside. In spite of the fact that the workers themselves have their opinions about the practicability of existing laws, their interpretation of labor's place in the existing scheme, and their ideals with regard to the level of life they wish to attain, these opinions have not as yet found sufficient expression to be a marked or universal formative influence in social concepts. This truth is even more noticeable when women's work is the problem under consideration.

Women have not had the incentives to arouse much conscious and concerted effort to put into form their opinions about industrial conditions. Association has not come so naturally to them outside of working hours as it has to men, who are open to the freer, casual companionship on the street and elsewhere, or who might be thrown together at political meetings and learn the effect of organization and discussion. The fact that women's work is often regarded as temporary in character has deterred them from taking any active interest in establishing permanent changes in the conditions surrounding their work. They have not as a general rule felt a real identification with the trade adopted by them. The attitude of society toward women, moreover, has had no inconsiderable influence. Disapproval has so

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frequently been voiced against the woman who sought employment in store or factory, so much unjust and shallow criticism has been uttered against the woman who has been forced into line with the present economic and industrial organization that it is not surprising that a great many working girls are sensitive about admitting their occupation. In addition, aggression on the part of women has received so large a measure of condemna- and ridicule that women have naturally been hesitant about making vocal any complaints or demands.

For a variety of reasons, then, we have not as yet had any considerable or definite expression from women workers themselves with regard to the working conditions which would appear to them desirable and just. In order that safe conclusions may be reached as to policies which are wise for industrial control, it is necessary that society should pay heed to the opinions of the workers, who are an indispensable factor in production and who are entitled to their measure of that respect and honor which is a part of the remuneration due to every person who adds to the wealth of the world. For the solving of social problems the workers bring a valuable contribution of wisdom gained through experience which should be the basis of any action which concerns them. Trade organizations are the most effective conductors of the opinions of labor to the rest of society, and in seeking to gain a comprehension of what women workers believe and what they have been able to accomplish for themselves, we naturally turn to the women in trade unions.

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EARLY HISTORY

The earliest record of organization among women working in San Francisco is found on February 24, 1888, when the "Ladies' Assembly 5855, Knights of Labor," met and discussed the helpless condition of the unorganized girls and women.[1] As a first step a committee from the Ladies' Assembly visited the Representative Council of the Federated Trades on the following Friday evening to ask the coöperation and moral aid of that body for the new effort. The council was interested in the presentation of the need for organization among women, and, in turn, appointed a committee which arranged for a mass meeting to be held on March 14, 1888. At this meeting a number of prominent speakers appeared and considerable interest was aroused in bettering the conditions for working girls. One speaker thus described some of the features of the existing situation: "This is a comparatively new country, and there should not be any complaint, yet there is. We find that in the ordinary industries a man receives from twenty-five per cent to fifty per cent more money than a woman for the same amount of service. The only way for women to ameliorate their condition is to organize for their own protection."[2]

The *Coast Seamen's Journal*, at that time the paper which voiced the general trade-union sentiment, did all in its power to arouse the interest of the organized men. In describing the need for action it says: "The condition of the working girls is worse than slavery. They have to work for a mere pittance, and hundreds of them are employed in basements where the light of day never penetrates. In many factories they are compelled to work alongside of Chinamen, and in some places, they are under Chinese foremen. This, indeed, is a sad state of affairs, and their condition can only be better by organization."[3]

[1] *Coast Seamen's Journal*, February 25, 1888; *San Francisco Examiner*, February 25, 1888.

[2] *San Francisco Examiner*, March 15, 1888.

[3] *Coast Seamen's Journal*, March 21, 1888.

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At the time of this agitation the "Girls' Union," a project which was instituted by a number of San Francisco women, received considerable ridicule from the working people. The directors of this club planned to open day and evening classes where the different branches of housework would be taught. In the newspapers they announced their willingness "to confer with any respectable girls from twelve to eighteen years of age that are interested in the formation of such classes."[4]

The design of the directors of the "Girl's Union" evidently met with no response, for we find them complaining that no one had applied for instruction.[5] They said they needed strong, willing girls for domestic service and could find places for 5000 good girls. The managers of the club instituted a scheme for sending abroad to bring girls over on the promise of employment. When explaining their plans, the directors spoke of the open hostility with which they were regarded by the trade-unions.[6] For the enlightenment of the public, the *Coast Seamen's Journal* gives an explanation of labor's attitude toward the "Girls' Union."

"There at present exists," says that paper in an editorial, "a so-called Girls' Union, managed by ladies of a philanthropic and religious turn of mind, and while we believe they mean well, their mode of procedure is not such as will emancipate our sisters from the slavery and socially degrading position which they at present are placed in. The girls have nothing to say in the management of the affairs of the society, and it is nothing more or less than an employment agency for domestics. The ladies on the committee from Assembly 5855, Knights of Labor, are *working* women who have had experience in the labor movement, and they not only deserve the co-operation and aid of labor organizations, but should have the assistance and encouragement of all honest men and women who have the cause of labor at heart. It is a fact which cannot be disputed that girls working in factories and stores do not receive, in most cases, sufficient remuneration to pay their board, and in all cases, they have to work for less than men for doing the same kind of work. It is true that women employed in household work are better paid, but the hours of work are so long and the position is considered so degrading on account of the haughty and tyrannical demeanor of their own sex who employ them, that girls of spirit do not want to accept situations as domestics. Such exclusiveness, haughtiness, and tyranny are no doubt considered by our female 'codfish' aristocracy

[4] *Daily Alta California*, February 24, 1888.

[5] *Daily Alta California*, March 25, 1888.

[6] *Ibid.*

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as the essential elements which constitute a lady, and as we are under the impression that they are 'a little off,' we would refer them to Webster, but probably they do not consider him an authority. The condition of the girl who takes a position as a domestic servant is indeed deplorable. The only time she has to herself is a few hours' liberty every second Sunday evening. If she accompanies her mistress and children for a walk or drive she is compelled to wear a white apron and cap, so that the public may know she is a 'servant.' American girls do not consider it a disgrace to do housework, but they do consider it a disgrace to wear a domestic livery and they object to being caged up like slaves for two weeks at a time. Our girls, therefore, prefer working in stores and factories where, if they have to work for starvation wages, when their day's work is done they are free. Those who are agitating the organization of the working women and girls are aware of the many difficulties and obstacles which stand in the way but when the Ladies Assembly takes anything in hand it generally stays with it."[7]

For a time the movement for organizing women promised successful development. The various unions made contributions and the managers of the Tivoli theater gave a benefit performance, the proceeds of which went to further the effort. No record of any definite accomplishment can be found, however. After all, the men regarded the question in a rather light mood, assuming that women's work was but a passing phase without permanent significance.[8] Real sympathy with the problems of the girl herself who was attempting to earn her living did not find much expression. The question seemed rather to be considered in relation to its effect upon men. One editorial remarks:

"There can be no doubt that the constant tendency of wages to decrease in all branches of industry is, in a great measure, due to the cheap labor furnished by women. We need not go outside of the city of San Francisco to find corroborating illustrations for this assertion. Several of our San Francisco unions, such as the printers and cannery workers, and many others, have been severely baffled in their efforts to maintain wages at a living standard on account of female competition. The question is naturally a delicate one, and men are prone to make concessions to their employers rather than involve their women co-workers in the unpleasant features which more or less characterize a strike. But as the chances for work grow scarcer and ever greater numbers of workers of both sexes are dragged into the maelstrom of competition, the feeling of consideration gradually ceases and the esthetic trait dwindles down to a minimum."[9]

[7] *Coast Seamen's Journal*, February 29, 1888.

[8] Interview with Mr. Walter Macarthur.

[9] *Coast Seamen's Journal*, May 2, 1888.

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The article ends with a strong plea to the women to organize, if not for their own sake individually for the sake of other workers.

While not resulting in any immediate action on the part of employed women, the publicity attendant upon the discussion of the service trade-unionism might render to women who were earning their own living was evidently suggestive of a possible way of relief from hardship long endured in silence, and of hope for assistance should the working girls become daring enough to protest against conditions which threatened their already precarious livelihood. On July 16, 1890, the sewing girls appealed to the Federated Trades in a communication which describes the difficulties of their position. This letter said:

"There are from fifty to sixty girls employed, and from fifteen to twenty men. The girls mostly do piece-work, and if late in the morning are severely reprimanded by the forewoman. We are never allowed to go until time to stop work, and if late or absent are always asked to give an account of ourselves, but the men never are detained or questioned. This same firm hires the power to run its machines to buttonhole, embroider, do tucking, cording, and sewing. Every girl has to pay twenty-five cents per week for the power to run her machine; has to pay for all repairs, supply oil and needles and attachments. They also have to lose time while repairing is being done. A great many times the power is shut off; then the girls are kept just the same, sometimes putting in three-quarters of a day waiting, even though the firm knows there will be no work.

"Our wages are very low, as we have had to compete with the Chinamen. This firm has considerable of their work done in Chinatown; and often we are told that we are only kept to work out of charity, as they could get the work done cheaper if they gave it all to Chinamen.

"A new hand makes from 50 cents to $2 and the best worker makes $6 per week. The average is about $4, and for girls who have no homes it is impossible to live on such wages in this city. The twelve or fifteen men get good wages—the head cutter getting $5 per day, the rest average $2.50 per day, which must come from the profits of the work of the girls—an unequal division.

"I am not complaining of the present prices but of the threat held over us, that next week the prices will be reduced twenty-five per cent—the girls' pay to be reduced but not the men's. Nor will the firm be contented with less profit, and plan and scheme to enrich themselves from us, while we are being driven to the almshouse or worse."[10]

[10] *Coast Seamen's Journal*, July 23, 1890.

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Evidently a union was formed at this time, for, on July 30, 1890, we find a resolution of the Coast Seamen's Union declaring that since the girls had organized and adopted a stamp, the Seamen's Union would pledge itself to give the women all possible assistance and to buy only shirts bearing the stamp of the "Coöperative Shirt-makers of the Pacific Coast."

It was in 1890 also that the millinery girls exercised their right of protest. They formed a temporary association with the purpose of securing more definite working hours. After a short, intense campaign, the girls persuaded the stores to close at six o'clock. This was accomplished without receiving any instructions as to procedure from the chairman of the organizing committee of the Federated Trades—a fact which the leaders in the labor movement of the time felt should cause him some chagrin.[11] The millinery girls were urged to form themselves into a permanent union but did not do so. Their victory was not enduring, for ten years later the millinery girls had the same battle to fight again.[12] On November 23, 1900, they once more formed a temporary organization and instituted a strike for shorter hours. They declared that they were required to work fifteen hours a day and demanded that the stores close at six o'clock in the future. The trouble lasted for almost a month before any settlement could be reached; the employers then signed an agreement to give early closing a trial excepting during the busy months of April, May, October, and November. The Labor Council organizing committee advised the girls to remain together in a permanent union, but, as in the previous instance, they were unwilling to take such action.[13]

Not until 1891 was there any organization among women coherent enough to receive recognition from the Council of Federated Trades. This was the Boot and Shoe Fitter's Protective Union, which is described on a later page. The various unions in trades at which women were employed included the women in their membership, as will appear lated, but for the next nine years there seems to have been no agitation exclusively

11 *Coast Seamen's Journal*, October 29, 1890.

12 *San Francisco Examiner*, November 23, 1900.

13 *San Francisco Examiner*, December 2, 10, and 17, 1900.

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concerned with working women. An occasional editorial comments upon the evil effects of low wages for women or upon some aspect of their position in the industrial world.[14] One of the most interesting of these is in regard to white women working for Chinese.[15] In a garment factory owned and operated by Chinese, the workmen went on strike for higher wages and the employer replaced the Chinese with white women. The labor commissioner investigated the factory and reported the conditions good. The women said they were satisfied and liked it better than working for a Caucasian "because the Chinese don't insult them." The editorial makes this comment: "The women by accepting employment from a Chinese in preference to living up to the white man's ideal proves that the question of morality is in her favor. When white folks accept work under Chinese it is because wages and conditions are as good or better than elsewhere. But there is little question of morality involved in the matter of white women and Chinese bosses. It is a case of 'root hog or die,' and if the women are not resigned to die (which we can hardly expect) they must 'root hog' or get married, and take the chances of dying anyway."

This is the last item for six years which discusses the working woman. The enthusiasm of 1888 died out gradually during the following two years. From the tone of the articles upon the question of women's work, we judge that the women were not responsive to the effort made to organize them. Many of the editorials indicate a critical impatience against the women for their willingness to accept low wages and for their lack of appreciation of the necessity to resist the encroachment of bad conditions. Then for six years, from 1894 to 1900, the records of trade-unionism in San Francisco are silent about women in industry. With 1900 began that revived interest which led to definite organization among women.

[14] *Coast Seamen's Journal*, October 29, 1890; March 25, 1891; April 1, 1891; November 4, 1891; April 11, 1894.

[15] *Coast Seamen's Journal*, August 14, 1895.

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STEAM LAUNDRY WORKERS, LOCAL, NO. 26[1]

Concrete examples are rare of what women workers would demand if able to enforce their own wishes as to the conditions under which they labor. An excellent illustration is found in the case of the Steam Laundry Workers of San Francisco, for this union is so powerful that it is able to insist on the closed shop in every steam laundry in the city. Since the industry is local in character, it is removed from any extensive or serious competition with plants in other communities, and, accordingly, lends itself more readily to the development of distinctively local conditions. Freed from dangerous outside competition, an important rival to labor is removed also, making it possible for the steam laundry workers to aim directly at the desired goal without fear of destroying the industry by subjecting it to terms which might give outside competitors an advantage. The fact, moreover, that the supply of competent women seeking laundry work is limited in San Francisco has been one of the large determining factors in the growth and success of the union.

Much change has characterized the development of this industry since its earlier days. The Chinese, who had already identified themselves with laundry work in California, supplied the first workmen. The methods of Chinese laborers proved unsatisfactory in the steam laundries because the difference in language proved a barrier to any understanding between the white employer and his Oriental employees, and consequently it was found impossible to enforce any conformity to business system upon them. For these reasons, white people were engaged about twenty-five years ago to take the place of the Chinese. The conditions surrounding the employment of these first white workers were among those survivals from the eighteenth century

[1] The facts about this union were obtained from Mrs. Hannah Nolan who, as Hannah Mahony, first organized the women; from Mr. Paul Scharrenberg, secretary of the State Federation of Labor; from Charles Hawley, business agent for the union; and from the secretary, Miss Carrie Parmer, to whom my special gratitude is due for her generous interest and assistance. Employers also have been interviewed, and the steam laundries visited.

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which still linger incongruously in our modern industrial organization. The "living-in" system was the order, each laundry providing board and lodging for its employees. The dormitories were wretched places with four beds in each small room. The food was poor and scanty, and even though the girls worked till midnight or after, no food was allowed after the evening meal at six o'clock. Half an hour only was allowed at noon for lunch. Early in the morning, the women were routed out in no gentle manner and by six o'clock the unwholesome breakfast was over and everyone hard at work.

These conditions remained unchanged until 1900, when a movement began for altering the old industrial regime in the laundries. During the summer of 1900 the state labor commissioner and some of the daily papers in San Francisco received a number of written complaints about conditions in the laundries. Many of the letters were anonymous, the writers stating that they feared they would lose their places if their names became known.[2] One of the papers became sufficiently interested to send a reporter to obtain employment in a laundry with the purpose of investigating the truth of the complaints. Ample ground for championing the cause of the girls was soon found. An old city ordinance prohibited work in laundries after ten o'clock at night, but the regulation was neither regarded by the proprietors nor enforced by the police. In all the establishments the girls worked long, irregular hours, frequently being detained until midnight, and sometimes until two o'clock in the morning. The investigator reported that the girls were physically depleted from their hard work and poor nourishment. Their hands were "blistered and puffed, their feet swollen, calloused and sore."[3] One of the girls said, "Many a time I've been so tired that I hadn't the courage to take my clothes off. I've thrown myself on the bed and slept like dead until I got so cold and cramped that at two or three in the morning I'd rouse up and undress and crawl into bed—only to crawl out again at half past five."[4]

[2] *San Francisco Examiner*, August 19, 1900.
[3] *San Francisco Examiner*, August 19, 1900.
[4] *San Francisco Examiner*, August 20, 1900.

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Wages were $8 and $10 a month for the girls who boarded in the laundry. Women who lived at home were paid slightly more, receiving $10 to $25 a month, but the wages of the majority of these women, many of whom were widows with children to support, did not exceed $17.50 a month.[5]

The publicity given to these hard conditions and the evidence collected to prove their reality led to action on the part of the supervisors. A new ordinance was submitted to that body proposing to prohibit work in laundries after seven o'clock at night or on Sundays, making a reduction of the working hours from sixteen to thirteen daily. Trade unions, women's clubs, and private citizens sent petitions to the supervisors urging the new ordinance.[6] The state labor commissioner spoke in favor of the amendment and explained the grounds upon which it should stand in the courts. Such action as could be taken in this matter had to be based upon "the consideration of public safety and repose."

"The old ordinance as it stands," said Commissioner Meyers, "limiting the hours of labor in laundries within the time between 6 A. M. and 10 P. M. has been upheld as a proper police regulation by the courts for the reason that there is danger of fire by night in the laundries, which is a menace to public safety, and because of the noise and confusion due to the continuance of work after dark. Now, if the ten o'clock limitation is held to be not unreasonable as the point of time when the menace to public safety begins, there is no reason why it should not be fixed, in the discretion of the legislative body, at earlier hours. The Supreme Court allows a wide latitude in the matter of reasonable police regulation, and there appears to be no reason why seven o'clock should not come within the rule of the court."[7]

When the ordinance was under discussion there was no opposition to its adoption on behalf of the employers in the steam laundries. One proprietor of a French laundry spoke in favor of the reform. "In some French laundries," he reported, "I know young French girls get up at five o'clock in the morning to go to work and work till ten o'clock at night." The two hun-

[5] Mrs. Hannah Nolan, and others who worked in the laundries at this time, gave this wage scale. *San Francisco Examiner*, August 19, 1900; August 20, 1900.

[6] *San Francisco Examiner*, August 28, 1900.

[7] *San Francisco Examiner*, August 29, 1900.

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dred Chinese laundries sent an attorney to protest against the restriction of the hours of labor.[8]

The new ordinance passed finally and became effective September 18, 1900.[9] The chief of police at once sent out notices calling for strict enforcement, but inside of three days one of the supervisors called to say that the clause prohibiting work on Sundays had not been intended and was to be eliminated at the next meeting of the supervisors. The ground for the repeal was that the Superior Court had twice decided that such a law was unconstitutional. Sunday closing in laundries was, accordingly, not enforced. "The law has never been tested beyond the Superior Court," said the chief, "I believe personally that such a law could be sustained, but while the Superior Court decision is undisturbed, we can only abide by it."[10]

It soon became evident also, that, while the employers had not come out in open hostility to the new ordinance, they did not intend to obey it if they could evade the watchfulness of the police. On October 5, 1900, a committee from the laundry girls called at a newspaper office and stated that many of the laundries were still working their help until eight and nine o'clock at night.[11] The girls were preparing to petition the supervisors to compel the employers to observe the working-day of twelve hours, from seven in the morning until seven at night.

At this time some of the bolder girls spoke in favor of forming a union, but the first definite move in this direction was made by the men about two months later, when the three hundred men employed in the laundry industry organized and applied for a charter to the Laundry Workers' International Union. The men did not wish to include women in their "local," but the international body refused to grant the charter unless the women workers were included in the organization with the men. The women workers when approached were found to be timid and hesitant about joining, for the employers had heard that a movement toward unionizing was afoot and threatened the girls with dismissal if they took part in the agitation. Finally one of the

[8] *Ibid.*

[9] *San Francisco Examiner*, September 19, 1900.

[10] *San Francisco Examiner*, September 22, 1900.

[11] *San Francisco Examiner*, October 6, 1900.

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girls was enlisted as an organizer. The movement was carried on secretly until, after sixteen weeks, the majority of the employees in every laundry had affiliated with the union. Not until the organization had a large and substantial membership did the workers declare themselves and come out with a formal demand for shorter hours and higher wages, together with a change of system.

So unanimous, so overwhelming, was the revolt that the employers could not help being impressed with the futility of resisting a change. The attitude and support of the newspapers proved a great help to the union at this critical time. The early members of the union feel that the publicity previously given to laundry conditions and the consequent sympathy that had been aroused for the girls was the large, determining influence which decided the employers to accede to the union's demands, since they could not afford to antagonize the public upon whom they were dependent for business.

By April 1, 1901, the conditions in the laundry industry were effectually revolutionized. The boarding system was abolished, wages were substantially increased and the working-day was shortened: girls who had been receiving $8 and $10 a month were now paid $6 and $10 a week; ten hours was declared to constitute the working-day and nine holidays a year were allowed. For overtime the employees were to be paid at the rate of time and a half. An hour was to be taken at noon and any worker violating this rule was to be fined. The fine was devised as an educative reminder of the new obligation the laborers were under to protect each other and to raise the standard of the industry upon which they must depend for a living, so fearful was the union that old conditions might creep insidiously back upon workers unaccustomed to independence.

The union worked quietly under the first agreement for two years, although during this time the leaders were carefully watching to see when the adjustment to the new order should be sufficiently complete to justify them in taking another step. In 1903 the nine-hour day was demanded. A sharp quarrel over the question took place among the proprietors. Some of the employers were ready to let the workers strike, but others felt

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that the loss to the business would be too severe, believing the chances of winning against the union were too slight to justify resistance. Because the owners could not agree to any concerted action among themselves, the union gained its point without much difficulty, and the nine-hour working-day was instituted.

No other event disturbed the even history of the Steam Laundry Workers' Union for three years; then, in April, 1906, came the great earthquake and fire which rendered the majority of its 1,700 members homeless. New and unaccustomed duties were imposed upon the leaders if the standard attained was to be preserved and the union be in readiness to meet the future. The building in which the union had had its office was burned. Twenty of the twenty-nine steam laundries were destroyed. With surprising promptness reorganization of the steam laundry workers was begun. All the camps and breadlines were visited, and the members who could be located were requested to register at the home of the secretary. Just one week after the disaster a meeting was held in a laundry which was located outside the burned district, and plans were made for securing new headquarters for the union. In these new headquarters, a relief station was opened where all members were supplied with clothing and shoes. About $1,000 were spent in this way. By the end of another week, the nine laundries that had escaped destruction resumed operations, giving employment to about 900 members of the union. They worked under the terms of the agreement which had gone into effect just previous to the fire.

During the following year nine new shops were completed, but the eighteen laundries worked under pressure to supply the demand for their services and the laundry business prospered. In such circumstances the leaders of the union recognized an auspicious opportunity for attempting to gain at once the conditions which, hitherto, they had been slowly evolving. When the new annual agreement was drawn up in April, 1907, the eight-hour day was demanded, together with a slight increase in wages. The proprietors refused to sign under these new terms, declaring the business would be wrecked by such exactions. The union held to its position and 1,100 members employed in fourteen laundries went out on strike. Four laundries, employing about

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two hundred hands, signed the agreement and continued to work. Aside from these four laundries none of the establishments attempted to do any business during the eleven weeks the strike lasted. One hotel tried to keep its own laundry running by the employment of non-union girls, bringing them to work in closed carriages. The union promptly induced the hackmen to refuse to carry the strike-breakers. The new workers themselves were approached and most of them were persuaded to join the union. To help the hotel, to which fresh linen was such a necessity, the proprietors of the custom laundries came once a week and laundered enough linen to supply the house. No other work was done. Relief could not be sought in Oakland, across the bay, for the trouble spread immediately to that city, and the San Francisco union aided the Oakland strikers with frequent contributions.

With so many obligations in the way of benefits and other expenses incidental to supporting a strike, the union's treasury was soon depleted. When the trouble began the union had $4,910.40 in the treasury. During the first two weeks no strike benefits were granted, as nearly all the workers had one week's pay intact. After this, $5 a week was paid to each member as long as the funds permitted, after which the unemployed strikers were given $3, $2.50, and $2 a week, according to the funds on hand. A 10 per cent assessment was levied on all members who were working, to be applied as benefits. From donations and from the proceeds of various entertainments given to aid the cause, $19,300 were received. This amount was practically all spent by the end of eleven weeks, when no settlement was in sight.

At this time, May 23, 1907, the conciliation committee of the Labor Council intervened. Several conferences had already been held between the proprietors and the committee representing the union, without resulting in any agreement. After a week of meetings and conferences the conciliation board submitted the proposition that the union should go to work on the basis of fifty-one hours a week, with a sliding scale reaching the eight-hour day at the end of three years. This agreement was accepted and all the laundries resumed operations June 17, 1907. It was found

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that in the interval of the strike business had dropped off about a third and this occasioned some temporary unemployment, but gradually conditions righted themselves.

The eight-hour day in steam laundries has been in force since April, 1910, the working hours of each day being counted consecutively. When the shorter day became effective, the members were prohibited from working more than one hour overtime and the fine was continued against anyone disregarding the rule about the full noon hour. No girl was permitted to begin work before seven in the morning. All time after five o'clock was counted as overtime and paid at the time-and-a-half rate.[12]

In addition to the reduction and regulation of working hours, the union has witnessed an increase of about thirty per cent in wages since the organization in 1901. The following is the minimum scale now in effect:

STEAM LAUNDRY WAGE SCALE

	PER WEEK
Head Markers and Distributors shall receive at the rate of	$22.50
Markers and Distributors shall receive at the rate of	18.00
Head Washer shall receive at the rate of	22.50
Washer shall receive at the rate of	18.00
Helpers in Wash House shall receive at the rate of	15.00
Head Wringerman shall receive at the rate of	18.00
Wringerman shall receive at the rate of	16.50
Distributors on plain work in Mangle Room shall receive at the rate of	18.00
Shirt Finishers shall receive not less than	15.00
Tiler Ironer shall receive not less than	15.00
Fluters shall receive not less than	10.00
Ironers, first six months shall receive not less than	9.00

[12] When the state law limiting the working hours of women to eight a day went into effect on May 1, 1911, the employers felt they should be released from paying any overtime rate. The union took the contrary view, that work performed at inconvenient hours should receive a higher compensation than labor falling within the customary working-day. Otherwise, the employer would be free to operate his laundry all night without paying extra to the workers who were reversing the natural order of life; or, he might put on a shift in the late afternoon, thus requiring the girls to go home from their work at disagreeable hours. The discussion over the question lasted for several months. Finally the decision was reached that the employer should pay the overtime rate after five o'clock in the afternoon, with the exception of Monday, when the higher rate was not to be exacted until after six o'clock. This distinction was made because work is generally delayed in starting on Monday morning by a necessary wait for the bundles to be brought in by the drivers, scarcely any linen being left over from Saturday.

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Ironers, six to twelve months, shall receive not less than	10.00
Ironers, over twelve months, shall receive not less than	11.00
Jumbo Ironers shall receive not less than	11.00
Polishers shall receive not less than	13.50
Shirt Press Operators shall receive not less than	13.50
Shirt Hand on Neck Band shall receive not less than	8.00
Wrist Band Machine shall receive not less than	8.00
Yoke Machine or Tiler on Yokes shall receive not less than	8.00
Sleeve Machine Hands shall receive not less than	8.00
Shirt Body Ironer shall receive not less than	10.00
Starch Body Ironer shall receive not less than	10.00
Flannel Body Ironer shall receive not less than	10.00
Shirt Waist Machine Hands shall receive not less than	9.00
Head Collar Ironers shall receive not less than	10.00
Collar Ironers shall receive not less than	8.00
Seamstress shall receive not less than	9.00
Head Starcher shall receive not less than	15.00
Starcher on Ladies' Work shall receive not less than	10.00
Shirt Dippers shall receive not less than	9.00
Shirt Rubbers, Auto. Dry-House shall receive not less than	9.00
Shirt Rubbers shall receive not less than	9.00
Shirt Rubbers on Shirt Starching Machine shall receive not less than	9.00
Collar Rubbers, Auto. Dry-House shall receive not less than	9.00
Collar Rubbers shall receive not less than	9.00
Head Mangle Girls shall receive not less than	8.50
Mangle Girls shall receive not less than	8.00
Tiers on Plain Work in Mangle Room shall receive not less than	10.00
Shaker on Mangle shall receive not less than	7.00
Operator on Tumbler shall receive not less than	10.00
Dampeners on All Work shall receive not less than	9.50
Shirt Folders shall receive not less than	8.50
Head Dry-House Hands, Male or Female shall receive not less than	10.00
Dry-House Hands, Male or Female shall receive not less than	10.00

Most of the workers receive more than the minimum wage, it being an unwritten law in the union that no one shall work at the lowest rate after some degree of skill has been attained.

Two grades of apprentices are distinguished by the class of work they are learning and are paid accordingly. Markers, distributors, washers, and wringers are known as Branch No. 1. All others are classed as Branch No. 2. No apprentice in Branch No. 1 is allowed to work in Branch No. 2. In the first agreement in 1901, apprentices in the mangle-room and shaking-room and on the simpler machines served in this capacity for a period of six months, but now the term is reduced to six days, after which

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they must receive the full wage. The apprenticeship term in Branch No. 1 has been limited to a year instead of the year and a half formerly required. Apprentices in Branch No. 2 receive not less than $7 a week. In Branch No. 1 the wages are graded as follows:

First three months	$9.00 a week
Three to nine months	12.00 a week
Nine to twelve months	15.00 a week

Apprentices may not be employed in place of journeymen workers. To prevent any danger of such substitution of the cheaper labor for the more highly paid, the number of apprentices is limited in Branch No. 1. To every six journeymen in each laundry, one apprentice is allowed in the washing, marking, and distributing rooms. There has never been any trouble in keeping down the number of apprentices, owing to the short term of only six days in Branch No. 2 and to the fact that it is not economical to employ unskilled workers in Branch No. 1, where the deftness and judgment gained from experience is required.

To gain a clearer understanding of the wage scale, some explanation of the nature of the work involved is necessary. In general the union states that it bases the rate upon the responsibility thrown upon the worker.

The work of the markers and distributors requires intelligence and speed. When the bundles are received in the laundry they are first passed into the hands of the marker, who places the identification sign upon each unmarked garment. Machines have been invented to do this, but, where tried, they proved slower than the hand method and are not now used in San Francisco. After the articles have been properly marked, they are sorted according to kind by the same workers and are sent on to the washing-room. When the linen is ready for its final distribution, just before leaving the laundry, it comes into the hands of the distributors. The same people who did the initial marking and sorting generally act also as distributors. In its system the practice of the workers resembles that in the interior of a post-office. To each customer is assigned a large pigeonhole, bearing his identifying mark. Into this compartment the articles belong-

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ing to him are placed. Speed and accuracy in this final sorting are of utmost importance, since promptness of delivery is involved, and since the distributors must be responsible for making sure that each customer has returned to him all the articles he sent to the laundry. Coupled with this is the unpleasantness of handling soiled linen preparatory to its washing. For work of this nature the highest wage is paid. Very few hands receive merely the minimum of $18 or $22.50, the average earning being more nearly $25 a week. Men are employed at this work almost exclusively. In the entire laundry industry in San Francisco only ten women are found in this department, and they distribute. They receive the same wages as the men, one of the articles in the agreement expressly stipulating that "women markers and distributors must be paid the rate of wages paid for men employed at the same work." The men do not look with favor upon women entering this branch and manage to keep it under their own control; the ground for the disfavor is not that of unsuitability, for the women have proved as efficient as the men, but merely that the work is highly paid and the men wish to retain the positions.[13]

After leaving the sorting department the linen is conveyed on trucks to the washing machines. These machines are huge cylinders connected with drains beneath. The amount of water used in washing must be carefully regulated or the result of the process is not satisfactory. If too little water is allowed the linen will not be clear and clean; if too much water is allowed the machine, as it revolves, throws the excess out on the floor. The business agent of the union says that the workers themselves are thus often responsible for the superfluous dampness of the floor, as the drainage is excellent in all but two or three of the steam laundries.

From the washing machines the wet, steaming garments are conveyed on trucks to the extractors. These resemble huge metal bowls set on a central stem. The linen is carefully dis-

[13] Miss Elizabeth Butler, in the *Pittsburgh Survey*, volume on "Women in the Trades," pp. 190–192, states that in the marking and distributing department of the Pittsburgh steam laundries women are rapidly superseding men, because they can be secured for a less wage, their work proving just as satisfactory.

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tributed in an inner perforated basket in such a manner that the outward pressure will be equal when the machine is in motion. The rapid revolution throws the water through the perforations into the outside bowl which surrounds the basket containing the linen, the water escaping through the central stem which connects with the drain.

The work of both wringers and washers is heavy and has unhealthful features, besides calling for care and good judgment. The wage established is accordingly higher than for work which does not depend upon skill and experience for its excellence. Men operate all the washing machines and wringers, as women would be unable to do the heavy lifting required. Only one woman is employed at washing in the steam laundries in San Francisco. She washes flannels by hand in a laundry that makes a specialty of fine work. She appears to be the oldest member of the union, and has a pleasant, good-natured greeting for all who come near her. With her skirt neatly tucked up to her knees she stands on a damp floor beside the open drain which carries off the stream of suds from the machines. She bases her contented cheerfulness upon the fact that she earns almost three times as much as she could in the conventional line of taking in washing at home.

When the clothes are removed from the extractor in which they were placed when taken from the washing machines, they are found to be twisted into hard bunches and are surprisingly dry. They are next transferred to the tumbler, which is a cylindrical machine performing the operation its name indicates, for the articles are tumbled about until they are loosened and untwisted. Not all the laundries are provided with tumblers.

Flat pieces go from the tumblers to the mangles. The shakers lift the linen from the huge hampers and straighten each article with a quick shake. They then hang the linen over a pole which is conveniently placed for the girls operating the mangles. As a rule this shaking is the initial task of apprentices, and is the lowest paid labor in the laundry. Although the work is hard and monotonous, it requires no training and involves no responsibility.

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Operating a mangle is also simple, requiring mechanical action on the part of the girls employed. Six-roll mangles are most commonly used. At one end the feeders push the flat articles into the machine. Each piece is carried on a conveying belt over and under the rolls and is received by other girls and folded as it comes out. The workers receiving the linen can sit at their work. It is the general custom for the girls to exchange positions at noon, those who feed in the morning receiving in the afternoon. This arrangement enables each girl to sit half the day. The union forbids its members from working on any unguarded machinery, and no record of injuries on mangles could be found, so excellently are these usually dangerous machines guarded in the San Francisco laundries; in fact the element of danger has counted for so little that the union does not reckon it as having sufficient weight to cause an increase in the proportionate wage scale.

Only flat pieces are run through the mangles; all other linen articles must be starched and dried. For starching collars and cuffs a machine is universally used. The collars and cuffs are fed into a machine with a conveying belt which carries them down through rolls buried in hot starch. These rolls rub the starch in and the linen passes on to a receiving table. Here girls rub the pieces smooth by hand and then hang them by the buttonholes on rows of hooks that move slowly on a chain across the table and through the automatic dry-house, next to which the starchers stand. The chain with its load moves so slowly that the collars and cuffs are dry when they emerge from the heated dry-house. They drop automatically into a basket.

Practically all other garments are starched by hand. Shirt-bosoms with attached cuffs must be rubbed smooth. After being starched these articles also pass through the automatic dry-house as described above.

For the dampening of shirts preparatory to ironing a machine is used which is extremely simple and effective. It consists of a good-sized box with a perforated pipe running around the inside. The dampeners lower the shirt into the box where it is sprayed from the pipes, the spray being so carefully regulated that the garment is dampened to just the right degree. The garments are then piled into a huge press, resembling an ordinary letter-

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press, which quickly equalizes the moisture and makes them ready, almost immediately, for the ironers.

The ironing department is in many ways the most interesting room in a steam laundry. Old familiar methods and extremely ingenious machines are found side by side. An ordinary electric iron, increased about four times in size, is known as a jumbo iron and is used to smooth large articles, such as skirts. Naturally a jumbo iron does work more quickly than the ordinary type, since it covers more space each time it is moved, but in proportion it is also heavy and tiresome to operate, calling for speed and skillful manipulation. For the other hand processes the familiar electric iron is used.

For much of the work in the ironing department machines are used. Body ironers and sleeve ironers differ only in size. They consist of two hollow, metal rolls, the upper one heated and the lower padded and unheated. The upper roll is about seven and one-half inches in diameter and the under one slightly smaller. The length of the rolls is from twenty-two to thirty-four inches in the body ironer, but only from six to twelve inches in the sleeve ironer. The operator slips the garment over the padded roll. With her left foot she presses a treadle, lifting the lower roll up into contact with the heated metal roll. By pressing another treadle with her right foot the motion is reversed. If the pressure on the treadle is lessened, the lower roll drops; accordingly the process requires continuous, steady alertness with both hands and feet, for the pressure on the treadles must be even and the garment must be held in place and adjusted on the lower roll as each part of it is ironed. Where gas is used to heat the rolls, another feature is added to the strain of operating the body or sleeve ironing machine, for the gas fumes are so disagreeable that many girls cannot work over them without becoming ill. In more than half the laundries in San Francisco the rolls are heated by electricity.

A machine for ironing shirt-bosoms works on the same plan as the above excepting that a padded board the shape of a shirt-bosom takes the place of the lower roll. But the shirt press is now in general use. This consists of two padded boards which swing on the same pivot. The operator fastens the shirt-bosom over one board with clamps. By touching a release treadle, the

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other board, which has been in contact with a flat, heated metal sheet slightly raised to the right, is swung around, while the board the girl has just prepared is lifted into contact with the metal sheet at the same time. The ironed shirt is pushed off automatically and the board is cleared for the operator to adjust another shirt, which she does while the one previously prepared is being pressed by the hot metal sheet with which it was swung into contact.

Neckband and wristband machines work on the same principle as the shirt press but differ from it in appearance. The lower padded piece is saddle-shaped and over this the neckband or wristband is fitted. By pressure on a treadle the lower piece is forced up against a heated metal surface which fits down closely over the neck and wristband. The older models of these machines required much exertion from the operator, but the newer form, in which the foot pressure is reinforced by a spiral spring, is the type generally used in San Francisco.

The machines used for ironing separate collars and cuffs are small mangles. Fastened to a table nearby are several other small machines used for shaping and trimming collars. To simplify the ironing of such fine work as shirt-waists and underwear a clever, but simple, device is employed. A number of egg-shaped, hollow, metal balls, called puffers, stand about two feet above the table on metal stems. The size of the puffers vary from that of a hen's egg to about seven inches in length. The sleeve of a shirtwaist or the gathered portion of a garment, which is difficult to iron by the usual hand process, is slipped over these balls, which smooth and shape the garment as it dries.

Looking back once more at the wage scale, we find that the rule of expecting a higher rate for the operations depending upon individual judgment and responsibility for the excellence of the work is adhered to. Shirt-body ironing is to all appearances far more exhausting than the work of a shirt press operator; but in spite of its difficulty, the former process is largely mechanical and an error in judgment would not make the difference in the quality of the work produced by the laundry that it would in the case of the shirt press.

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Some comparison between wages paid where the closed shop is maintained and in other cities should be of interest, as it throws light upon the workers' view of a fair wage. We find the following scale in San Diego:[14]

Markers and distributors	$15.00 to $20.00 a week
Shirt finishers	9.00 to 12.00 a week
Ironers (piece work)	9.00 to 15.00 a week
Jumbo ironers	9.00 to 12.00 a week
Polishers (experienced)	12.00 to 15.00 a week
Polishers (less skilled)	9.00 to 10.00 a week
Shirt press operators	12.00 to 15.00 a week
Wrist-band machine	12.00 to 15.00 a week
Shirt-body ironers	9.00 a week
Shirt-waist machine	9.00 a week
Collar ironers	9.00 to 12.00 a week
Starchers	12.00 a week
Shirt and collar rubbers	9.50 a week
Head mangle girls	8.00 a week
Mangle girls	1.25 to 1.50 a day
Shakers	9.50 a week
Dampeners	9.50 a week
Shirt folders	9.00 a week
Dry-house hands	12.00 a week
Hand washers	12.00 a week

Comparing this scale with that prevailing in San Francisco we find these differences: the minimum wage in San Francisco for markers and distributors is $7.50 more a week than the San Diego minimum and $2.50 more than the highest wage paid in San Diego. Since the average pay in San Francisco is $25 a week for markers and distributors, the wage in this line actually runs from $5 to $10 more in San Francisco.

Shirt finishers receive, at the minimum, $6 a week more in San Francisco than in San Diego.

	San Francisco
Ironers receive	$3.00 more
Jumbo ironers	3.00 more
Polishers from	$1.50 to 4.50 more
Shirt press operators	1.50 more
Wrist-band machine hands	4.00 less
Shirt-body ironers	1.00 more

[14] These figures were obtained from the Laundrymen's Association and were verified at several of the leading steam laundries of San Diego.

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Shirt-waist machine hands	same
Collar ironers	1.00 less
Starchers about	2.00 less
Shirt dippers	3.00 less
Shirt and collar rubbers	.50 less
Mangle girls	.50 more
Shakers	1.50 less
Dampeners	same
Shirt folders	.50 less
Dry-house hands	2.00 less

This comparison is not strictly fair, since the workers in San Francisco generally receive more than the minimum stipulated by the union's wage scale, whereas the San Diego wage list is that actually paid in the majority of the laundries. The figures, nevertheless, do show that the union's demands tend to be lower than the industry would pay even without an agreement in the less skilled branches, and to run higher in the more responsible skilled positions.

The following is the rate usual in Chicago steam laundries:[15]

Markers and distributors	$12.00 to $15.00 a week
Shirt finishers	12.00 a week
Ironers (piece work)	$1.50 to 2.00 a day
Polishers	.07 per shirt
Shirt press operators	10.00 a week
Wrist-band machine	5.00 a week
Sleeve machine hands	5.00 a week
Shirt body ironers	9.00 a week
Shirt-waist machine hands	2.00 a day
Collar ironers	8.00 a week
Starchers	8.00 a week
Shirt dippers	7.00 a week
Shirt rubbers	7.00 a week
Collar rubbers	8.00 a week
Head mangle girls	7.00 a week
Mangle girls	6.00 a week
Shakers	6.00 a week
Dampeners	8.00 a week
Shirt Folders	6.50 a week
Dry-house hands	6.00 a week
Hand washers	2.00 a day

[15] This wage scale was obtained from several of the leading steam laundries of Chicago.

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On comparing Chicago with San Francisco we get this result:

	San Francisco
Markers and distributors receive	$10.50 more
Shirt finishers	3.00 more
Ironers	2.00 more
Shirt press operators	3.50 more
Wrist-band machine hands	3.00 more
Sleeve machine hands	3.00 more
Shirt body ironers	1.00 more
Shirt-waist machine hands	3.00 less
Collar ironers	same
Starchers	2.00 more
Shirt dippers	2.00 more
Shirt rubbers	1.00 more
Head mangle girls	1.50 more
Mangle girls	2.00 more
Shakers	1.00 more
Dampeners	1.50 more
Shirt folders	2.00 more
Dry-house hands	4.00 more

The New York City standard rate is given by Sue Ainslie Clark and Edith Wyatt in an article in *McClure's Magazine* February, 1911:

Hand starching (shirt)	$12.00 a week
Hand ironing	10.00 a week
Hand ironing (collars)	9.00 a week
Hand washing	8.00 a week
Machine ironing	7.00 a week
Feeders	6.00 a week
Folders	6.00 a week
Catchers	5.00 a week
Machine starching (shirts)	5.00 a week
Collar ironing	5.00 a week
Machine starching (collars)	4.50 a week
Shakers	4.50 a week

The divisions are not the same as on the San Francisco list but there is basis for some comparison between New York and San Francisco.

	San Francisco
Ironers receive	$1.00 to $2.00 more
Hand washers	10.00 more
Machine ironers	1.00 to 6.00 more
Feeders and catchers	2.00 to 3.00 more
Folders	2.50 more
Starchers	3.00 to 5.00 more
Shakers	2.50 more

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Elizabeth Butler, in the Pittsburgh Survey volume on *Women and the Trades*, gives the wages paid in that city:[16]

Head mangle girls	$5.50	$6.00	$8.00	.....	.....
Shakers, feeders, folders	3.00	3.50	4.00	$5.00	.....
Head starchers	8.00	9.00	.....	.....	.....
Starchers	3.00	3.50	4.00	5.00	$6.00
Women checkers and sorters	8.00	9.00	10.00	12.00	16.00
Men checkers and sorters	12.00	15.00	18.00	20.00	21.00
Roll machine ironers	6.00	7.00	8.00	.....	.....
Press machine ironers	6.50	7.00	8.00	9.00	.....
All others	4.50	5.50	6.50	7.00	.....

(For long service a few ironers receive $8.00.)

Here we find that the highest wage paid falls conspicuously short of the minimum union wage in San Francisco.

	San Francisco
Head mangle girls receive	$0.50 to $3.00 more
Shakers, feeders, and folders	3.00 to 5.00 more
Head starchers	6.00 to 7.00 more
Starchers	4.00 to 7.00 more
Women checkers and sorters	2.00 to 10.00 more
Roll machine ironers	2.00 to 4.00 more
Press machine ironers	4.50 to 7.00 more
Ironers	4.00 to 6.50 more

The statistics of the Massachusetts Department of Labor for 1910 give a little information about typical steam laundry wages in that state:[17]

Plain ironers	$8.10 a week
Starch ironers	9.60 a week
Polishers	12.00 a week
Washers	12.00 a week

This means that ironers in San Francisco are paid from $1.40 to $2.90 a week more than in Massachusetts; polishers get $1.50 more; washers receive from $3 to $6 more.

The Pittsburgh comparison also calls our attention to the influence the Steam Laundry Workers' Union has had in keeping the rate of pay the same for women as for men. In Pittsburgh, women checkers and sorters, known as markers and distributors

[16] Elizabeth Butler, *Women and The Trades*, pp. 394–396, 400–401.

[17] *Report of Statistics of Labor*, Mass., 1910, p. 20.

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in San Francisco, are paid from $4 to $8 a week less than men receive, and according to Miss Butler's report are rapidly displacing the men on this account, their work proving even more satisfactory. In San Francisco the union insists that women be paid the same as men for the same work, and the men hold these positions.

As to working hours, according to the same authorities quoted above, it is not uncommon for the New York laundries to run from seven in the morning until eleven or twelve o'clock at night without granting any overtime pay. In Massachusetts the nine-hour day is the rule. In Pittsburgh the hours are long and irregular. The law in Pennsylvania places the limit of working hours for women at sixty per week, and not to exceed twelve hours in any one day, but in the laundries this rule is not obeyed. The usual week is given at sixty-one and one-half hours, with overtime running to sixty-six hours. A short-ironer reported working until 1:30 A.M., and several owners admitted keeping open until midnight.[18] Even before the eight-hour day was a matter of law in California, the union had succeeded in enforcing that regulation in San Francisco.

Sanitary conditions in San Francisco laundries are excellent, but this is also true of the larger and newer plants in all cities. San Francisco doubtless has a smaller proportion of the old crowded shops than are found elsewhere, because practically all the laundries in San Francisco have been newly built since the earthquake and fire of April, 1906, which demolished the old plants. Only three of the thirty-two steam laundries can be criticised for steam, dampness and poor ventilation. The most improved machinery is universal, for it is of recent purchase also. The union does not permit its members to work at unguarded machinery, hence accidents are rare, and for such as occur the union considers the workers responsible because of taking some unnecessary or unjustifiable risk. In this matter the attitude of the union members is interesting, inasmuch as it shows no disposition on their part to blame the employer or the industry. With the well-guarded machinery accidents are so insignificant and so slight, according to the workers themselves,

[18] Elizabeth Butler, *Women and The Trades*, p. 351.

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that when called upon to give some information about the nature of the injuries they could not recall the occurence of anything more serious than a slight burn in the ironing-room.

The proprietors themselves take great pride in the condition of their shops and have always shown themselves willing to co-operate readily in any suggestion the union has made for the improved comfort of the workers. Such suggestions have always been slight and infrequent and are made through the business agent of the union.

Laundries are found in but two hotels, the two largest in the city. In one the laundry is located on the top floor. It is airy and well lighted, the large windows commanding a panoramic view of the bay, the hills, the mountains and the city. This laundry does work for the hotel guests as well as the linen for the establishment. A higher price is charged, but the hotel laundry gives finer service; in fact, its work is the best in the city. This laundry pays the highest wages in San Francisco and will employ only the most skilled hands. Here, for instance, the mangle girls receive $12 instead of the minimum of $8 a week, and the shirt-press operator is paid $16 to $18 instead of the minimum $13.50. The girls were never required to work overtime here, even before the eight-hour law became effective.

In the other hotel the laundry is in the basement and is artificially lighted. It occupies three times as much space as the one just described, and the washrooms, starching, and drying-rooms are partitioned from each other. More money has been expended to make this laundry comfortable than in any other in the city and an extensive ventilating system has been installed. Over every machine is a hood which carries off the steam and fumes and near each worker is a ventilator. Streams of air flow in from these ventilators, but even so the disadvantages of the location are not to be overcome and the air is close and dead. The hotel is making preparations to move its laundry to the top floor. To the observer, this shop would appear to be one of the most undesirable in the city, and it is surprising, therefore, to find that the workers like the shop, remain employed here a long time, and, if they change, seek to come back. The president of the union works here as a checker and sorter. The wage paid to the hands

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is substantially above the minimum. From conversations with the workers it became evident that this laundry, most undesirable in location, close, hot, artificially lighted, seems to have induced a spirit of loyalty among its employees, because the proprietors have been so ready to install whatever improvements promised to better the shop.

Actual working conditions alone seem to be the only ones in which the union concerns itself. Lunch-rooms, rest-rooms, and provisions for noon-hour recreation do not appeal to the union leaders as a necessity. In only one steam laundry has a rest and lunch-room been provided. This is in the plant belonging to what is known as the "Laundry Trust." This plant provides a comfortable room for the girls and employs a matron. A gas stove, tables, dishes, and cooking utensils are furnished, and the girls may prepare their own lunches here if they desire. The workers themselves do not express any special desire for such conveniences. Most of the girls said they preferred to spend the time during the noon hour outside the laundry. Many of them buy their lunch; those who carry their food from home go out of doors to eat, a desirable way to spend an hour, and one made practicable most of the time by the San Francisco climate. Hot water is always available and in every laundry there are some arrangements that can be utilized for cooking. This makes a warm meal possible for every worker, and it is customary for several girls to join together and have tea, coffee, hot stew, or some other warm dish.

As to hours, wages, and shop conditions in general, the union says that it has attained all it desires and is satisfied. The proprietors, on the other hand, are not so well satisfied. They complain that they are unable to make money and blame the union wage and hours for this. Several of the leading laundries gave as another reason that San Francisco did not seem to demand so many clean clothes as other cities. Several superintendents who had been identified with the laundry business in other parts of the country spoke of the fact that there was a noticeable difference in the amount of linen sent to steam laundries from each family in San Francisco as compared with other cities. They were inclined to believe that high prices prevented people from

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utilizing the steam laundries.[19] They admit that it is more expensive to have work done at the laundry than at home, but declare that they cannot lower their prices and thus increase the volume of their business, because the price is not sufficient now to make the work as profitable as it is in other communities.

In the matter of prices, we find that the charge in San Diego is the same as in San Francisco, excepting for collars, which cost three cents for laundering instead of two and one-half cents in the former city.[20] The laundries of both Pasadena and Los Angeles serve a large tourist trade, which usually wants work done quickly and under the circumstances is not apt to consider price. Two lists are shown in these laundries. On the one apparently intended for transient customers the prices run noticeably higher than on the regular list for permanent customers. On the former a difference of from five to twelve cents a dozen appears in household linen over the San Francisco charge, and the cost for garments is slightly more. On the family list the charge is about the same as in San Francisco. In Sacramento the prices for women's garments and for household linen are listed slightly lower than in San Francisco, but the list for men's linen is the same.

In New York City household linen in quantities costs the same as in San Francisco, but runs considerably higher for individual pieces. For wearing apparel, the New York price closely approximates the San Francisco charge. Massachusetts presents a variation according to the locality. In Brookline the prices are in excess of those charged by the San Francisco laundries which make a specialty of finer work, running from two to ten cents more on half the list, and being the same on the remainder. In a typical Cambridge laundry, garments are done for from half a cent to five cents less per article than in San Francisco, but household linen is slightly higher.

Prices in Chicago are lower; women's garments cost from two to fifteen cents less per article; household linen from four to

[19] It should be noted that San Francisco is not a manufacturing city and that it does not suffer from the soft-coal nuisance.

[20] The comparison of prices in this and in each of the following instances was made from the lists obtained from typical laundries in each community.

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twelve and a half cents less on the dozen; men's clothing costs the same as in San Francisco for half the articles, but is listed cheaper by from half a cent to five cents per article on the other half.

Pittsburgh shows a decidedly less charge than San Francisco for household linen and women's garments; the former costs at a rate of from six to fourteen cents less on the dozen; women's wear runs from three to twelve cents less per garment. Over half the men's list is the same, but the remainder costs from two to two and a half cents less in Pittsburgh.

The San Francisco prices are eight per cent below the estimate the proprietors make of those necessary to afford reasonable profit under union conditions. This extra amount they say they cannot charge and hold any trade, because of competition, particularly that of the French and Japanese laundries.

The French laundries do not work under union conditions, but an effort which is being made to unionize the employees is meeting with some indication of success. Some years ago the French laundry workers were in an organization of their own, which was affiliated with the Labor Council, but they found it next to impossible to accomplish any results in changing shop conditions or enforcing their rules, because of the internal organization of the laundries themselves. Most of the workers are relatives of the proprietor and live in his family, which commonly occupies the rooms in the rear or above the laundry. With a large number of their co-workers thus identified with a family interest in the business, the other employees met only discouragement in their efforts. In April, 1901, the French laundry workers followed up the ordinance of August, 1900, which limited their work to thirteen hours a day, with a demand for the twelve-hour day.[21] They stated that in spite of the ordinance they had worked from fifteen to sixteen hours, and had ordered a reduction in time when they made out their new schedule. A large number of the French workers were locked out in consequence of this demand. In the majority of the laundries the workers finally won. The union among the French employees met with so many difficulties, however, that it finally ceased to be active. Hours

[21] *San Francisco Examiner*, April 28, 1901.

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continued to be as long as the city ordinance permitted and wages to be low, not averaging more than half those paid in the steam laundries. French laundries are numerous and are strong enough to be a regulating influence in the price charged for laundry work.

An entering wedge toward bringing these foreign workers into the Steam Laundry Workers' Union was found in June, 1911. The business agent of the union noticed that the building occupied by a certain French establishment was larger than was usual. On investigation he discovered that a complete plant for a steam laundry was in operation in the rear of the small shop which was visible from the street, and in which a few girls could be seen ironing by hand. The place employed over a hundred hands. The business agent of the union found in the neighborhood a number of residents who were in sympathy with his cause, and they agreed to sign a complaint against the French laundry stating that it was a nuisance, unless the proprietor consented to unionize his shop. At the time, the city administration was in the control of men who came from trade-union membership and the proprietor evidently felt that his business was in danger, for he yielded to the demand that he make his laundry a closed shop. As soon as these employees had joined the union, they began to work among the other French laundries to induce their fellow workers to do the same. This French employer is also endeavoring to persuade the other proprietors to consent to the recognition of the union, in order that all the French laundries might be working on the same basis as to wages and conditions that he is now forced to meet.

No toleration is displayed toward the existence of Japanese laundries under any conditions.[22] Against them a thoroughly organized campaign has been carried on for some years. In 1908 a decided depression made itself felt in the laundry business, proprietors, drivers, and workers all noticing a steady decrease in the amount of custom. So seriously was the condition felt that an investigation was instituted, the conclusion of which was that the decrease in business in the steam laundries was found to be due to the rapid growth of Japanese laundries. In two years these had doubled in number and had increased their capacity.

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Twenty Japanese establishments were found in the city of San Francisco in 1908. The Japanese had cut under the prices charged by the steam laundries and had secured a large trade. On the strength of these findings the "Anti-Jap Laundry League" was formed. The league is supported by the Laundry Drivers, the Steam Laundry Workers' Union, the proprietors of the steam laundries, and the French laundry owners. The Laundry Drivers contribute $100 a month, the union $100 a month, the proprietors of the steam laundries ten cents for each person employed, and the French Laundry Association $35 a month.

Fighting the Japanese laundries is conducted as a business. The league has an office and employs a secretary, a stenographer, and several outside workers. The outside workers trail the Japanese wagons, making note of the time and address of each stop, and whether the driver has picked up or delivered a bundle. Pickets are stationed outside of Japanese laundries; cards are passed out by them to the patrons; and the customers are followed to find out where they live. This information is turned over to the office, where the name of the person living at the given address is ascertained and entered upon a card. To each patron of the Japanese a series of letters is then sent, appealing to them to stop their patronage of Japanese laundries. If the letters have no effect, a personal visit is made on the customer by a woman outside worker who endeavors to persuade the housewife to promise to abandon her employment of a Japanese. The league claims that it influences about ninety per cent of those approached. To reach the general public and arouse a sentiment against the Orientals, a campaign of publicity is carried on by means of printed circulars.

Efforts are not confined to the attempt to undermine the business by taking away trade, but direct blows are also aimed at the laundries themselves. The National Laundrymen's Association Supply House has been induced to refuse to sell to the Japanese or, at least, to place a prohibitive price on all machinery desired by a Japanese. The local supply houses were dissuaded

[22] The information about the Anti-Jap Laundry League was obtained from the secretary, Mr. R. C. Hearst.

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from selling soap, starch, bluing, and other necessities to Japanese in San Francisco. They are forced to obtain all of these things from Berkeley, across the bay, where one establishment makes a business of supplying them.

The league has not felt it necessary to expend much effort against the Chinese, for it is shown that Chinese laundries do not receive an extensive patronage from white customers. Not only is their rivalry for the trade felt less, but the Chinese are not so aggressive in their business tactics as are the Japanese.

The Anti-Jap Laundry League has the backing of all the labor unions, for they are all strong advocates of the exclusion of Orientals. Many of the unions forbid their members to patronize Japanese laundries, imposing a heavy fine, amounting to $50 in some cases, for doing so.

The Steam Laundry Workers' Union does not confine its activities to maintaining its strength in San Francisco alone, but has expanded its business until its office has really become a central employment bureau which supplies labor to a majority of the laundries in the smaller towns in the territory tributary to San Francisco. Recently the members of the Laundry Workers' Union in Alameda County affiliated with the San Francisco union, adding over nine hundred members to that organization. That the two unions should have coalesced is natural, for the workers in Alameda County, across the bay, frequently work in San Francisco laundries; in fact, the president of the Oakland union was employed in San Francisco.

The union declares the following to be its objects:

"To cultivate feelings of friendship among members of our class; to assist each other in securing employment; to reduce the hours of labor; to secure by legal and proper means a higher standard of wages for work performed, it is necessary to organize and unite under one banner all branches of our class.

"Therefore, we pledge ourselves to labor unitedly in behalf of the principles herein set forth; to perpetuate our order on the basis of friendship and justice; to expound its objects and work for their general adoption; to respect and obey the laws laid down for its guidance and government, and always labor for its success knowing, as we do, that when we are united no reasonable demand that we may make can be denied us.

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"When organized it shall be our duty to educate ourselves on all trade and labor matters, in order to work intelligently, unitedly and in harmony with one another.

"The principal objects of the union are to protect and advance the interests of the laundry workers of San Francisco and vicinity; to secure a shorter work day; to establish a fair minimum rate of wages; to establish an employment bureau; to secure prompt payment of wages, and the practice of those virtues that elevate and adorn society and remind man of his duty to his fellow-man, to elevate his position and maintain the rights of the workingman."[23]

The membership of the union includes all nationalities and people of all ages. In securing or holding employment age makes no difference, because the older women are generally highly skilled, so that many mature women are found in the trade.

The members elect the officers of the union semi-annually, but this does not mean that officers are frequently changed. The same secretary and business agent have been re-elected for several years. Every member is required to vote on penalty of a fine, and all dues and assessments must be paid by election time. Each person must present the membership card as he or she passes in to the voting place showing a record clear from debt to the organization. One ballot is then handed to the voter. Four or five hours are required for the entire membership to vote, the large hall being crowded most of the time. The elections are attended by considerable partizanship and often occasion personal ill-will among the members. Vigorous electioneering is carried on at the polls by the candidates and their supporters. Not long since, when important positions were being sought by several members, certain shop collectors delayed sending the dues they had collected in to the central office. The action was evidently done with the intention of causing confusion and dissatisfaction at election time. A number of members found, when they presented themselves at the polls, that they had not yet been credited by the main office with dues they had paid. In the hurry and stress of the moment it was not possible to discover where the blame should rest and the irritation resulting from the situation cost the incumbent officers a number of votes.

[23] By-laws of the International Steam Laundry Workers' Union.

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Internal friction is not uncommon between the men and the women over the conduct of affairs. It is not improbable, indeed it is looked upon as desirable, by outside labor officials, that the men and women should eventually separate and have distinct organizations. As it is now, the men are inclined to assume a domineering attitude, which makes it unpleasant for the women to speak freely and discourages those girls who are naturally timid from asserting their opinions. In spite of the fact that the women in the union outnumber the men almost five to one, men are always elected as delegates to the State Federation of Labor. This situation is due to the fact that the women will not stand together on a woman candidate, those in one laundry being unwilling to vote an honor to a woman working in some other laundry, each laundry group forming a clique of its own. Rather than see an honor go to another clique the women will vote for the man.

The expenses of the union are met by dues and initiation fees. Initiation fees are on a sliding basis according to the wage received. The minimum for Branch No. 2 is $5 and the maximum $25 for journey workers. Apprentices are charged a fee one-half that paid by the journey workers in their division. The minimum initiation fee for Branch No. 1 is $10 and the maximum is $50 for journey workers. Dues vary according to the earnings of the worker. Members receiving $10 a week or over pay fifty cents a month; members receiving under $10 a week pay thirty-five cents a month for dues. The chief expenses of the union are for salaries. The recording and financial secretary is paid $20 a week; the secretary has an assistant who receives $17 a week; $15 a month is paid to the treasurer; the sergeant-at-arms is paid $5 a month; the business agent receives a salary of $27 a week. The receipts of the union are so far in excess of its expenses that the union has accumulated a substantial fund and is in a prosperous financial condition.

The Steam Laundry Workers' Union seems to be firmly entrenched in its power. In addition to the fact that it would be necessary for the owners of laundries to have 2000 workers available to put in the positions at once, if they hoped to bring about the open shop, other troubles would follow, since the union,

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because of its numbers and influence and because it is an example of the conditions the trade-unionist regards as his goal, would have the backing of the entire labor world. A number of the best shops in the city also are really owned by the laundry drivers, who themselves are formed into a strong union. At the time an attempt was being made to form a "laundry trust"[24] and an actual start was well on its way in that direction, the drivers became alarmed as they saw numerous laundries absorbed by the new project. The drivers were proprietors themselves, inasmuch as they own their routes, hiring the laundries to do the work they brought in, for a specified sum. In the immense plant that was being established they saw a formidable rival, for the trust proposed to hire drivers and run wagons of its own on all the routes. To meet this danger the drivers themselves started laundries to which they took the work of their customers, so that now a number of the shops are the property of groups of laundry drivers while others depend for their support upon the patronage contracted for with the drivers. This condition is a very near approach to the ownership of the industry by the laundry workers themselves, and acts as an effectual stop to any action on the part of laundry proprietors sufficiently general to break the power of the union.

The Steam Laundry Workers' Union views the present arrangement as to hours, wages, and shop conditions with satisfaction. The workers feel that a fair proportion of the result of their labor reaches them and that they have an influential voice in the ordering of the conditions of their lives. As long as the situation in San Francisco remains as it is, they say they have nothing more to ask.

[24] See page 31.

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BINDERY WOMEN'S LOCAL UNION, NO. 125[1]

Bad conditions had nothing to do with the inception of the Bindery Women's Union, its first suggestion coming from a remark lightly made by the present secretary. She had been assigned to some work usually done by boys, and, as she took her place at the table, laughingly told one of the men that she was going to join his union. He took her remark seriously, talking to her as they worked side by side about the desirability of the women forming an organization. A month after this first conversation a meeting of the women employed in binderies was called in September, 1902. The majority of the 225 women engaged in the trade attended the meeting, but four-fifths of them admitted frankly that they came merely out of curiosity, and not because they were dissatisfied with their working conditions. At the September meeting, seventy-four of the girls joined. A vigorous campaign of persuasion was continued by the workers who had become interested, with the result that the union had gained a membership of 200 by November, 1902. Notification was then sent to the employers that a union had been formed, and that recognition was requested. After a week's delay, the employers consented to receive the representatives from the women. At this first consultation the employers offered no opposition to the movement; in fact, they showed themselves friendly rather than otherwise. At this time no agreement was made and no schedule of wages was presented.

The girls were working eight and one-half hours a day. They were receiving an average wage of $7 a week, working on holidays for the same rate, but receiving extra compensation for Sundays and for night work. The overtime wage was fixed by the employer. The girls who were earning from $3 to $6 a week were paid fifteen cents an hour overtime; those receiving $6 to $8, twenty cents an hour; those earning over $8 a week, twenty-five cents an hour.

[1] The secretary of the local organization of the International Bookbinder's Union, Miss Ella Wunderlich, furnished the information about this union.

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While the girls had been contented with the above conditions before organizing, meeting with each other and discussing their trade seemed to have the effect of calling the workers' attention to some things they thought should be remedied. They began to feel that the union should be of some service to them. After the workers were organized, the old arrangement was left undisturbed only six months. In May, 1903, the union gave thirty days' notice that an increase of wages was desired; $8 was named as the minimum for the less skilled journey-workers, and $10 for the skilled. No scale of wages was made for apprentices, but twenty-five cents an hour was designated as overtime pay for an apprentice, an increase of ten cents an hour over the former rate. Time and a half was fixed as the overtime wage for all journey-workers. A night shift was to receive the regular rate, the overtime applying merely to hours in excess of eight and one-half. Eight holidays were demanded. On refusal of the employers to grant the increased wage, a strike was declared.

The girls gained their demands at the end of four weeks. They supported their own strike entirely while it was in progress, those who were employed paying a percentage of their wages to the union. After they went back to work the International Bookbinders' Union paid them $4 a week for the time they had lost.

The union asked for no further changes for almost three years. In January, 1906, the eight-hour day was requested. On condition that it should not become effective until June 1 this demand was conceded.

Before the six months were over the union was forced to a test which proved how much internal cohesion existed. The earthquake and fire came in April of that year, and every bindery in San Francisco was destroyed. In less than a week, Willie Smalzon, a member of the men's union, whose home was outside the burned district, placed a placard on his fence asking the members to come and register. With this as a starting point, reorganization began anew. After a meeting of the executive committee which was held in Oakland on April 30, 1906, a notice was published in the papers calling a meeting of both the men and women in Twin Peaks Hall, San Francisco. The men's

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union and the women's union continued to hold joint meetings until November. At the time of the fire the Bindery Women's Union lost about thirty members, most of whom have never been heard of since. After six months all who had not reappeared were voted withdrawal cards in order that their record might stand clear on the books of the union.

Work was extremely plentiful. As soon as the printing and binding shops could find shelter they ran night and day in order to fill the immense demands they had to meet. Three shifts of labor were kept busy, from eight o'clock in the morning until four in the afternoon; from four in the afternoon until midnight; from midnight until eight in the morning. When the first of June brought the date agreed upon for the shorter day to go into effect, there was a little friction about granting the eight hours, but no serious difficulty arose. The employers were in no position to risk trouble when forced to meet immediately such an influx of business. Although the union had not requested the overtime rate for night work, the employers voluntarily paid a bonus to the shift employed from midnight until eight o'clock in the morning.

A year later the prosperity of the employers reflected itself in a wish on the part of the girls to share more largely in the profits of the industry. In April, 1907, a new scale was submitted which fixed $10 a week as the minimum wage for any journey-worker. When this new agreement was proposed, the question of apprentices was taken up for the first time. An apprentice wage scale of $4 a week with a fifty-cent increase for every six months of service was established. A three-year term of apprenticeship was named. A clause limiting the number of apprentices was also included, but this was waived on condition that apprentices should be given to understand when engaged for work that they were expected to come under the jurisdiction of the union. This new agreement was settled without any trouble and is still in force after almost five years.

The continuation of the arrangement is an indication of contentment with existing conditions on the part of the bindery workers; for the union has no definite time for submitting agreements, the old one holding over until some new situation arises

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which requires adjustment. The employers have expressed a desire for an understanding that schedules shall stand for three years in order that they may be certain of their arrangements with employees for a definite time. Most of the women's unions believe in agreements lasting for a definite stated interval, but the Bindery Women's Union prefers the method of indefiniteness because it leaves the workers free to make new demands when occasion arises without deferring action until the expiration of the old contract.

While $10 a week is the established minimum wage, more than half the women are paid a larger sum than this, $11 to $12 being usual, while forewomen receive $14, $15, to $18 a week. It seems a little strange, therefore, that the employers should consider the minimum too high, claiming that some of the girls are not worth that much. To this the union replies that it will not lower its standard; if a girl is not worth $10 the employer may discharge her, for the union does not interfere in case of dismissal. A girl is expected by the union to be efficient enough to earn $10 a week if she remains in the trade at all.

The union has fostered the industrial idea in organization because it has found that this system serves the ends of the women much better than craft organization. The San Francisco shops handle every type of work and the girls fill in on all branches. This enables the girls to keep steadily employed even during a dull season, for they can be used in any department. In other parts of the country, the women are most frequently found in a craft union, such as "Book Cover Stampers," "Collators and Folders." The San Francisco union believes that this breaking up of the workers into small groups confined to one branch of the trade weakens the power of an organization because the women are distributed in their interests. It also gives ground for jurisdictional disputes. Another result is a narrow specialization which hinders the efficiency of the worker for the trade as a whole.[2]

The women are occupied with the simpler branches of binding, being shifted from one table to another as they may be needed. A woman runs the sewing machine and also the stitching machine

[2] The secretary of the Bindery Women's Union, Miss Ella Wunderlich, points out this difference.

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which is used for wiring pages together. The folding machine is attended by a woman whose duty it is to sit beside the machine and watch if anything goes wrong. If a sheet tears or is crumpled in passing through the folder, she can tell by the sound and stops the machine, removing the spoiled sheet. Punching machines and perforating machines are run by women, but these are not in constant use.

Girls seated in a long row at a table sew the folded sheets of the books together. The big needle used for the work is threaded through the end of a cord which is strung up through a bar raised horizontally above the table. Hand sewing is generally in use because it is more firm and more satisfactory than machine work.

Near the sewing table are other tables piled with the sheets ready to be gathered into a book. The women walk around the table, taking one sheet from each pile. When the collator completes a book she places her initials on it, so that if a mistake is made in arrangement, it will be possible to tell whose fault it is. No penalty is attached for making a mistake, nothing being done unless errors become numerous. The initial-placing system seems to be a sufficient corrective in itself to prevent carelessness, for noticeable inefficiency would soon make itself known. Indexing machines are operated by girls. The ruling machine is run by men, the girls feeding the sheets into the machine. Young apprentice girls usually paste the leather title-pieces on the backs of books, the lettering being done afterwards by men.

In a word, it might be said as a general division, that all the preparatory processes are in the hands of the women and all the finishing in the hands of the men. Jurisdictional disputes arise between the men and women on this point; sometimes the employer wants to put women at work which is regarded as coming under the province of the men's union; sometimes the men feel that certain work should fall to their hands, as in the case of the folding machines, which were won by the women only after a dispute lasting two years.

The union itself forbids the girls from doing bronzing. This consists of rubbing a gilt powder into the damp covers of catalogues, pamphlets, programs, etc. The work is very disagreeable,

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injurious to eyes, nose, throat, and hands. Bronzing machines have been invented which do away with this danger, so the girls feel justified in refusing to do the work by hand. At present bronzing is done by the men.

As a basis of comparison as to hours and wages elsewhere, we find a little information in the New York State Department of Labor Report for 1908.[3] In New York City, women gold-layers, that is those engaged in pasting the gold-leaf on the backs of books preparatory to the letter stamping, receive $10 a week for an eight-hour day. Collators get $8 a week for an eight-hour day. We see that the hours and wages are about the same in both cities. Although collators in San Francisco receive $10 a week, they are few in number and often are apprentices, so the wage in this branch would probably prove to be on the same basis as the New York wage. Fully half the women in San Francisco binderies receive a higher wage than the required minimum, so as a matter of fact wages in San Francisco may show a higher average than the New York schedule, but we do not have sufficient data to prove the assumption. Miss Elizabeth Butler in her book *Women and the Trades* states that beginners get from $3 to $4 a week in Pittsburgh, and that the percentage of women earning over $7 is small; forty-five per cent to fifty-nine per cent earn from $4 to $6 a week. They work nine or nine and a half hours a day. Here we see that the San Francisco minimum exceeds the general Pittsburgh wage by from $3 to $6 a week. There are no women in the bindery worker's union in Pittsburgh, for the organization, which is small and controls no shops, excludes all workers who are not finishers, forwarders, or rulers, and as no women are thus employed, no woman can be a union member in Pittsburgh.[4]

Bindery work is, on the whole, pleasant. Two kinds of shops are found, large ones, and small ones known as "kitchen shops." The name indicates nothing as to conditions, merely meaning a small one-room establishment carried on at the rear of a stationery store or a small printing office which does pamphlet work. The "kitchen shops" sprang up after the fire and often

[3] *Report of Bureau of Labor Statistics*, New York, 1908, part II, p. 475.
[4] Elizabeth Butler, *Women and the Trades*, pp. 279, 281.

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employ but one girl. The large shops are airy and well-lighted, most of them being newly constructed.

Although the industry has greatly expanded, the membership of the Bindery Women's Union, which includes all the women in the trade, has remained practically stationary. A distinct effect of the introduction of machinery shows itself in this industry. With the building of the new shops after the fire, the most improved machinery was installed. Hand folding, for instance, was formerly quite common in the San Francisco shops. Three thousand sheets a day could be folded by hand, but the new machines fold 20,000 sheets. Thus, while women were not thrown out of employment, the new machines put an effectual stop to any increasing demand for labor with the growth of the industry.

At present the membership of the union is 275, the majority of whom are Americans. Most of the members are between the ages of twenty-five and forty. About a third are married women who prefer doing work other than housekeeping. Employment is regular as a rule and two-thirds of the members remain permanently in the shop where they find employment. About a third of the members work irregularly and are inclined to shift about from one establishment to another. In July and August a slack season comes which affects this floating and less skilled element of the bindery workers. Apprentices are compelled by rule of the union to remain in one shop for three years.

The women employed in binderies in Alameda County across the bay from San Francisco come under the jurisdiction of the San Francisco union. This includes the women in seven shops in Oakland and one in Berkeley besides the one at the University of California.

While no great issues have arisen for which the bindery women must contend, and the union has brought about no such remarkable revolution in conditions as did the laundry workers, still, the bindery women can prove that the union has performed a distinct service in maintaining a good standard. For several years previous to the formation of a union, there had been a noticeable tendency toward falling wages. Women who were receiving $7 a week at the time of the organization had been

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receiving $10 only three years previous. After the recognition of the union further reduction of wages ceased. At present the minimum is fixed at the point which had been considered normal before the policy of reduction began.

In order to handle properly all the details of management, the union in October, 1909, increased the dues from thirty-five cents a month to fifty cents, making it possible to support an office and employ a secretary who could give her entire time to the business of the organization. This secretary also acts as business agent and is the only paid employee of the union. Aside from these dues, the only other expense attached to belonging to the union is the initiation fee. This is $5 for journey-workers and $2.50 for apprentices. Apprentices pay no dues, but are not allowed any voice or vote in the meetings. A fine of twenty-five cents is imposed for non-attendance at meetings. There are no fines for infringement of rules or agreement, a reprimand being considered a sufficient discipline. Practically all the receipts are required for the expenses of conducting the union.

The business of the organization is in the hands of officers and committees. Elections come yearly. The officers are a president, vice-president, secretary-treasurer, business agent, and recording secretary, the last two being merged into one at present. The union also elects a sergeant-at-arms and an inspector, whose duty it is to see that all who attend the meeting are members. The executive committee consists of five members, three of whom are elected, the president and vice-president being the other two by virtue of their office. Voting is not compulsory.

The local organization does not do a great deal in the way of benefits. The International Bindery Workers' Union has charge of the death benefit of $75. Sick benefit is not a feature of the union, although sick members are visited and aided, if necessary, from private contributions. A change is contemplated in this arrangement and a committee is now working on a plan for a permanent benevolent fund.

Recreative projects have not been made a feature to any degree by this union. An annual ball has been the only social affair undertaken. Some of the leaders feel it might be well to combine some social amusement with the regular meetings in

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order to bring out a larger attendance and thus be a means of inducing more interest among the members in the questions which concern working-women. No lively interest in the problems to be solved for the working-women characterizes the rank and file of the membership. Conditions, wages, and hours have improved rather easily and it is natural that the women should not appreciate the service of unionism to a great extent. Many of them admit that they regard the union as necessary, but nevertheless are careless about paying dues and sharing in the work and responsibilities. The leaders in the Bindery Women's Union are notably efficient, broad-minded, and tactful in their dealings with both employers and workers; consequently the members as individuals are undisturbed by the frictions in the shops which might call their attention to the service the union does really perform for them in the way of keeping working conditions pleasant and free from irritation.

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PRESS FEEDERS AND ASSISTANTS[1]

Only seven women members are found in the Press Feeders and Assistants. This is one of the earliest trades organized in San Francisco, but the first union was wiped out in 1898 after an unsuccessful strike for the nine-hour day. In 1902 the former members started an agitation which brought about a reorganization in 1903. A strike for the eight-hour day involved all the printing trades in 1905, and in this disturbance the press feeders and assistants shared. After seven weeks the trouble was settled by an agreement to reduce the hours fifteen minutes every six months, which would bring the working day to eight hours at the end of two years. An increase of fifty cents a week in wages every six months for the same period was also gained at this time.

When the reorganization was effected in 1902, forty women were employed as press feeders, but the number has steadily diminished. This is due to the nature of the work. The press feeders are expected to clean the machines, a dirty, disagreeable task which the employers are unwilling to ask women to perform. For this reason the proprietors of the shops will not hire any new women, and as those already in the trade marry or go into other lines of work, they are replaced by men. The wages paid the women are the same as the men receive. Three of the women receive $13.50 a week and four $16.50 a week.[2]

The men of the union say that the women have always been among the most interested and dependable members, and, at the time of the reorganization, worked diligently to promote and encourage the movement. During the strikes the women have always been loyal and helpful. The men have no objection to women in the trade; it is simply owing to the disagreeable features involved in the work that women are not considered suited for the employment.

[1] The facts about this organization were obtained by interviews with the women and from the secretary of the union.

[2] Miss Butler in the Pittsburgh Survey, volume on *Women and the Trades*, gives $5 to $8 a week for the wages of press feeders in the city of Pittsburgh. (p. 279.)

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TYPOGRAPHICAL UNION NO. 21[1]

The Typographical Union was one of the first trade organizations formed in San Francisco and has had women as members almost from the first. In 1888, the twenty-seven women belonging to the Typographical Union played a prominent part as witnesses in an investigation being carried on by the state commissioner of labor.[2] Complaints had been made about conditions existing in certain printing shops and the girls belonging to the union were summoned to give evidence, both in regard to the establishments against which complaint had been lodged, and in regard to conditions elsewhere as a basis for comparison. Some of the girls testified that they had been paid only $2.50 to $8 a week at piece-work when employed in the shop under investigation; that they were never allowed to paste and measure their own matter, being forced to accept the proprietor's word as to the amount they had done.[3] Since in the shops where they were afterwards employed they earned $18 to $25 a week, they felt convinced that the proprietor had falsified his estimate in the former instance. They also told of long hours and many personal indignities to which they had been subjected. The unorganized girls from the shop substantiated all that had been said. As a result of the conditions exposed, the Typographical Union instituted a boycott against the shops under investigation.[4]

At present the union's membership of over a thousand includes only fifty women. This number represents the larger part of the women in the trade. Although the number of women in the union has not increased greatly as the years went on, the women have always been interested and helpful in all things concerning the general welfare.

They receive a wage of $24 a week in job offices. In newspaper offices, the rate is $29 a week for day work, and $32 a week

[1] Facts about the union were secured from the secretary.

[2] *San Francisco Examiner*, February 25, 1888.

[3] *San Francisco Examiner*, February 27, 1888.

[4] *San Francisco Examiner*, March 1, 1888.

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for night work.[5] The dues are made proportionate to the individual earnings, being one per cent a month for general dues, and one and one-half per cent a month for an old-age pension. This pension amounts to $5 a week after the age of sixty or in case of disablement. The sum given as death benefit is $75 to $400, the amount varying according to the length of membership. No sick benefit is given regularly, but a relief fund is maintained from which loans are made in any case of necessity.

While the women have always proved themselves willing to bear their share of responsibility, naturally they do not play a conspicuous part in union matters because their numbers are so small. Women have seldom held office, and then only in a minor position, but they frequently serve on the committees.

[5] In Pittsburgh, according to Miss Butler, women linotype operators are paid $12 to $18 a week. See *Women and the Trades*, p. 279.

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WOMEN'S AUXILIARY, NO. 18, TO TYPOGRAPHICAL UNION, NO. 21[1]

An auxiliary consisting of the wives, mothers, unmarried sisters and unmarried daughters of the members of the Typographical Union was organized June 25, 1903. The objects of the auxiliary are stated to be: "To create a closer and more fraternal feeling between the families of members of the union; to promote sociability; to render assistance necessary in time of sickness and trouble, and for such other beneficial purposes as the majority of the members may elect, particularly that of furtherance of the use of goods bearing the union label."[2]

Not much interest has been shown in the work of the auxiliary. The membership is small. In 1910 the auxiliary disbanded, but was revived a year later, and recently the activities seem to be taking on renewed life and to be developing.

The unions feel the necessity for securing more support from the families of the members, both for the sake of creating public opinion favorable to their undertakings, and for the purpose of giving the members of a trade-unionist's family a better understanding of the problems the bread-winner must meet. As an expression of this sentiment the State Federation of Labor at its last meeting passed a resolution that it would recommend and encourage the formation of women's auxiliaries in all the unions. As yet, in San Francisco the movement has made little headway. The auxiliary to the Typographical Union is the only one showing any activity.

[1] The president of the Women's Auxiliary, Mrs. Mary Barron, furnished this information.

[2] Constitution of Women's Auxiliary, No. 18.

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TOBACCO WORKERS[1]

The Tobacco Workers' Union has but twelve members, all of whom are employed in one shop where tobacco is prepared for chewing and smoking and a few cigarettes are made. Several of the girls work at stripping the leaves, but this process is largely in the hands of Spanish and Indian women who do not belong to the union. The first organization of the tobacco workers was encouraged ten years ago by the manufacturers because they desired the use of the label. Under such circumstances the body has naturally had an uneventful career marked by little activity on the part of the members.[2]

Young girls from sixteen to eighteen years of age constitute the larger part of the membership, only one or two men being included. The president of the union is a man. The girls do not have any clear idea of organization nor any definite conception of what conditions would be desirable for themselves. Regular meetings are not held, the members being called together only in case some question requires discussion. The only accomplishment of the union seems to be the recognition of a minimum wage of $7.50 a week. Several girls earn as much as $12 a week.

The rate of pay in San Francisco does not differ materially from that of New York, where some figures are available for comparison from the report of the Bureau of Labor Statistics for 1908. In Albany the women earn $11 a week working a ten-hour day; in New York City the wage runs from $5 to $10 a week for a nine and a half hour day; Rochester pays $9 a week for a nine-hour day; Syracuse $7.50 for a nine-hour day; Utica has the ten-hour day with a wage of about $8.15 a week.[3] The tobacco workers in San Francisco have the advantage of a shorter day since the eight-hour law went into effect.

Upon shop conditions, the San Francisco union seems to exercise no influence. The factory was roughly reconstructed

[1] For this information the secretary, Miss Kerrigan, was interviewed and the factory visited.

[2] Interview with Mr. Paul Scharrenberg.

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after the fire of 1906. The front third of the ground floor is occupied by a saloon. The building is dark, the ceilings low, and the space crowded. On the second floor in the two rooms where the girls work there is an ample supply of windows, but the girls insist upon keeping them closed, with the result that the air is hot and oppressive. The girls complain much of headache. On the ground floor the girls work in a dark space crowded behind the office.

Possibly because of the shifting nature of the membership and because small unions seem to be the general order in the craft, the international body of the tobacco workers has very close supervision over the local organization, a fact which, in turn, reacts on the union itself and prevents it from developing a strong, independent spirit.

All the applications for membership must be sent to the international office, where a record of the age of the applicant and the date of initiation is made. No one over sixty is allowed to join. The due-books for the new member are made out by the international and returned to the local financial secretary. The initiation fee is small, only one dollar, and it may be paid in four weekly installments.[4]

The duties of the local secretary are minutely dictated by the international. In San Francisco she receives no salary, but her dues are remitted. She is employed in the office of the factory and collection of the ten-cent weekly dues on Saturday constitutes practically all her work for so small a union. The stamps used to indicate the payment of initiation fees, dues, fines, and assessments are furnished to the local secretary by the international secretary-treasurer. The account of stamps issued is very strictly kept, and if the local makes application for a greater number of stamps than the international secretary-treasurer thinks necessary, an investigation is ordered. In making the collection, the local secretary uses a system of duplicating books similar to a shop collector's list. When the collection is finished, she divides the amount into two portions; a third of the

[3] Report of the Bureau of Labor Statistics, New York, 1908, part II, p. 511.

[4] Constitution of Tobacco Worker's International Union.

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initiation fees, dues, international fines and assessments and all receipts for purely local assessments are retained for a local fund. In San Francisco this would amount to about forty cents a week. According to the constitution of the tobacco workers, this money must be deposited in the bank in the presence of two trustees. The treasurer's warrants used by the local union for all expenditures are prepared and furnished by the international office. The remainder of the fund collected, along with one of the duplicated sheets, is sent to the international headquarters. The collection sheets are filed away after the amounts thereon have been credited to the accounts of the various members. The money at the international office is divided into three funds: A third goes into the "general expense fund" from which the cost of conducting the international office, salaries, organization, and label agitation is paid; a third constitutes a sick and death benefit fund; the remaining third forms a strike benefit fund. The collection from the local must be forwarded to the head office within forty-eight hours. If a week's delay occurs an investigation is instituted by the international president and executive board.[5]

The payment of benefits is entirely taken out of local management. To obtain the sick benefit of $3 a week, formal application must be made to the international body on blanks furnished for that purpose. First an examination must be made by the local physician authorized for such service. A committee of three persons must visit every week during the illness, no two calling at the same time. Benefit payments do not begin until two weeks after the case is reported, but in case of long illness it may begin from the date of the first report. Hedged around thus carefully by restrictions, it is not surprising to learn that no member of the San Francisco union has ever asked for sick benefits, for it would probably appear easier and less irritating to a sick person to do without them. In case of strike, assistance to the amount of $3 a week is allowed, commencing on the day when the difficulty is approved by the proper authorities of the international. All local difficulties are acted upon by the international. The system of reports and investigations is complicated

[5] Constitution of the Tobacco Workers' International Union.

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and would appear to be sufficient to discourage the local union from attempting to correct conditions which required remedying.[6]

The Tobacco Workers' Union is too small to have developed any distinctive conditions that have significance. It does present an interesting study in structure because of the minute details to which the direct attention of the international body is given.

[6] Constitution of Tobacco Workers' International Union.

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UNITED GARMENT WORKERS[1]

Local Union, No. 131, of the United Garment Workers was established in San Francisco in 1900 through the instrumentality of the Labor Council. The women engaged in the garment trades had been previously organized into a "Cloakmakers' Union,"[2] but in September, 1900, resolved to join with the men and affiliate with the United Garment Workers of America. "It was decided to make a vigorous fight against all unfair firms." The name was changed and the finances of the union arranged on a basis to conform with the constitution of the international body.[3] For several months a campaign for increased membership was carried on with evident success, for the workers became much interested and 1800 signified their willingness to join the movement.[4] Only about eleven hundred actually did enter the union, however, owing to the opposition of the employers. Previous to this enlargement in the scope of the organization with its consequent growth in numbers and gain in power, the hours of work in the garment trade were irregular, excessively long during the busy season, excessively short or no employment at all if the season were dull. The girls were charged for all repairs on the machinery, for needles and for belting. Needles cost five cents for three, and a belt cost twenty-five cents. Some weeks as much as $2 or $3 was deducted from the pay for repairs. The immediate effect of the order established by the union in the shops it controlled was to abolish these charges, to increase the wages ten to twenty per cent, and to regulate the working hours to eight a day.

About two years after this organization was effected the men cutters became dissatisfied and sought to withdraw into a union of their own. The women, who far outnumbered the men, re-

[1] The *Labor Clarion*, interviews with the secretary, Miss Hagen, and Mr. Paul Scharrenberg furnished much of this information. Factories were visited and employers have been interviewed.

[2] *San Francisco Examiner*, September 19, 1900.

[3] *San Francisco Examiner*, October 12, 1900.

[4] *San Francisco Examiner*, April 12, 1901.

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fused to permit their withdrawal at first, but after three months of conflict, the women voted the men $250 to start a separate organization. The new union was not a success and the men sought to return to the original body. The women refused to receive them and cutters are not admitted to the union at the present time. Men employed at other branches of the garment trade coming under the jurisdiction of the United Garment Workers are included in the membership. The men are few and the affairs of the union are entirely in the hands of the women.

No notable changes have taken place since the first agreement with the employers was framed. In spite of its encouraging beginning, the union has not succeeded in extending its power. The great earthquake and fire of 1906 dealt the organization a severe blow. Many members were entirely lost from the knowledge of the union, although efforts were at once made to locate members through the papers, and a meeting was held within a month of the disaster. The union was reduced in numbers about half at this time, nor has it ever regained its lost ground since. Many of the factories which had employed union workers were not rebuilt; others resumed work under non-union conditions.[5] At the present time only two factories in San Francisco are union shops. These factories manufacture overalls, shirts, and other garments much in demand by workingmen, and only by use of the label can they command the class of trade they desire. Both supply mining districts where union feeling runs high. The influence of this factor is what forced the recognition of the United Garment Workers in the first days of the organization.[6]

This event happened in 1901 and furnishes an excellent example of the force of a well-sustained boycott. In that year a

[5] One manufacturer stated that this was brought about by the unreasonable attitude of the union in refusing to make any concessions during the stress of the days following the fire when the employers were under great difficulty in re-establishing the industry. Several non-union manufacturers made similar statements as a reason for not unionizing their hands, saying that the union was too dictatorial in its tone and too difficult to deal with. Another non-union employer, on the contrary, said he thought the union requirements very reasonable and fair, but that he did not wish to subject himself to any outside interference in dealing with his employees.

[6] Interview with Mr. Paul Scharrenberg, secretary of the State Federation of Labor.

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strong effort was made to break the power of trade-unionism in San Francisco.[7] Many small, struggling organizations were wiped out and the employers in the garment trades were hostile toward the efforts of the newly unionized workers to establish union regulations in the factories. The Labor Council recognized the necessity for the unions as a whole to take some action to show their power, and urged, as a point susceptible to attack, a boycott against garments not bearing the union label. Letters were sent to the mining districts strongly appealing to the unions for their support in the effort. The result of this was that a carload of goods sent by one of the factories into the mining country was returned because the garments did not bear the label. The manufacturer at once signified his desire to open under union conditions in order to obtain the label which he saw was necessary to the maintenance of his business. Only two factories were subject to this form of persuasion, and these two are the only factories meeting the terms of the union at the present time. The other factories supply a rural trade to a large extent, shipping to the smaller towns where trade-union sympathy is practically unknown and where the label has no effect on the sale of goods.

The trade itself is so open to outside competition that the union realizes that it cannot hope to control local conditions and make them differ materially from those elsewhere. The producer must meet the prices of his business rivals from all over the country and he cannot pay higher wages and run shorter hours and do this. Wages in San Francisco are therefore about the same as in other localities. The piece-payment system furnishes the basis of wages. The work is minutely subdivided, no girl making an entire garment. The average earned is $9 a week; the minimum wage permitted is $1 a day. Folders receive $8 a week; examiners are paid $10; $9 is the minimum for boxers. The garments are laundered on the premises, which necessitated a special agreement with the Laundry Workers that these women should come under the jurisdiction of the Garment Workers. They are paid the rates usual in the steam laundries, earning

[7] See account of the Waitresses' Union.

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from $8 to $18 according to the work. The employer fixes the wages for apprentices in all branches and the number is not limited.

The outside factor that the union can attack is the prison-made garment and against such goods a constant war is in progress. The labels used on prison-made garments have been carefully collected and are displayed wherever possible with the hope that people will not buy if they recognize the articles as the product of convict labor. The union does not oppose the manufacture of goods in prisons, and the leaders in discussing the question, it should be said, show a sympathetic understanding for the need of occupation and training for convicts. The action discountenanced is the furnishing of these goods to local dealers at a price so low that home manufacturers must keep down wages and work standards to meet the competition. The union claims that two-thirds of the shirts on sale in San Francisco are prison-made, but several employers consider this estimate far too high.

One of the chief objects of the union has been the protection of its members from the rivalry of the Chinese. Simultaneously with its efforts toward enlargement and reconstruction, the union began a campaign against this alien labor. Definite action was taken to substitute white workers for the Chinese. In April, 1901, we find this report: "The union has received assurances from the national organization that it will do all it can to induce white help to come to the state to take the places of the Chinese. The local body will endeavor to supplant the Chinese garment-workers as rapidly as possible with white labor."[8] At the time of the organization of the white garment workers the sweat-shop feature of the trade in San Francisco was largely in the hands of the Chinese. Overcrowding in one or two rooms was common, where they lived, ate and slept with the bundles of clothes being made. Chinese owned a large number of the stores selling sweated goods, although most of them employed white salespeople. Frequently a white man acted as agent, contracting for goods and then hiring the Chinese to do the work. The Garment Workers' Union asserts that these conditions still

[8] *San Francisco Examiner*, April 28, 1901.

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menace the security of the white workers unless they constantly guard against the employment of Chinese in the trade.[9]

The union exhibits more alarm over this Oriental rivalry than the manufacturers regard as having foundation. Three manufacturers, the leading ones in the city, said that they felt no business competition from Chinese-made goods, that the greater part of such garments was made entirely for Chinese consumption.[10] As to comparative wages, the manufacturers stated that the Chinese themselves were now as strongly organized as the white workers and would not work for less. The number of Orientals in San Francisco is decreasing also because of the Exclusion Act, which prohibits coolie labor from entering the United States, and because, of late years, the Chinese already here have been returning to their own country. Taken altogether the employers do not feel that at present the Chinese are a serious rival to the white workers.

Fear of workers who may overstock the labor market and reduce wages is natural in the garment trade, which is subject to seasonal changes. The union has taken action to equalize conditions that may arise from a dull season. Before unionizing, many of the girls were laid off entirely at times. Now all members work, sharing equally the burden of slackness by shortening the hours for each worker and making three-fourths time the usual day for such seasons. In the branch of trade carried on in the union shops, that of making men's wear, November is the month when the workers say they experience the effects of a dull condition. Demand has some influence, but difficulty in obtaining raw material is given as the chief cause. As to the effect of the slack season, the owner of the largest plant in the city, a non-

[9] The *Fourteenth Biennial Report of the California Bureau of Labor Statistics* (1909–1910) states that there are ten establishments in San Francisco employing Chinese in clothing manufacture. The total number of Chinese employed is ninety-two, four of whom are cutters, forty-eight tailors, and forty operators. The operators are paid from $6 to $8.99 a week. In five establishments the sanitary conditions were reported good, and in five fair. (pp. 109, 342, 348.)

[10] At the request of the writer, several Chinese students at the University of California made an investigation of the amount of garment-making among the Chinese. They reported that a few years ago two Chinese families took work to their homes, but did not now do so. They stated that the garments made by the Chinese establishments were used exclusively by the Chinese.

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union factory, said he seldom found it necessary to lay off any of his employees. The dull season in his factory came during the summer, when many of the girls leave of their own accord to go into the country to work at the fruit industry. They leave thus temporarily in a sufficient number to make it unnecessary for the factory to lay off those workers who elect to remain in the city.

In the union shops no one can be discharged without first receiving a warning, and when such a warning is given, the Garment Workers' Union looks into the merits of the case before dismissal is permitted. In this respect this union differs in its practice from other women's unions, which do not interfere in such cases.

The working day was limited to eight hours in union shops when the first agreement was made, but the girls decided to work eight hours and fifteen minutes each day for five days in order to have Saturday afternoons free. The law limiting the workday for women to eight hours put an end to this arrangement on May 1, 1911. The garment workers never favored the new law and its effects on them have not made the girls more satisfied. They cannot now have their half-holiday because they are forbidden to work the extra fifteen minutes each day which made it possible. Instead of being able to earn a little extra by working overtime during the busy season, the girls see temporary help employed. These new people must be taken into the union, although their services are required for only a short period during the year. When the dull season comes this means that more members will be thrown out of employment, and the union, according to its established practice, will be forced to share the work with the extra, transient people who are not required in the trade at all excepting for a brief, busy period.

Among the members who have been in the organization since its earlier days, as many of them have, there is a strong bond of fellowship. Naturally the members do not entertain a very friendly regard for non-union workers, whom they feel are reaping the benefit of the standard the union set without sharing any of the responsibilities. During the period when the garment workers were carrying on their active campaign for increasing

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membership and installing the union label, working conditions underwent a gradual change in the factories.[11] When interviewed several employers admitted that they did shorten hours and make various concessions to keep their employees satisfied, because the agitation carried on by the organizers was causing unrest and discontent. The union claims that really it is, then, responsible for keeping up the standard in all the shops, for it educated the girls in the trade to demand certain conditions, and that when these conditions were established in some of the shops through their instrumentality, the only way the other factories could keep their employees was to give them as good or better conditions in the open shops as were found in the union shops. The union members are convinced that they have born the labor and expense of the fight for better conditions and that the others have benefited equally without being willing to share the burden. Union girls as a rule will not accept employment in an open shop, simply on the ground of personal feeling toward the women who do not join the organization. The union takes pride in the efficiency of its members and desires them to raise the grade of their work so that the girls from the union may be recognized as being the most skilled operators.

With the shifting in the class of membership, the leaders have found themselves becoming more and more an educative influence about standards of work and living. The older members of the union are Americans, but Americans do not enter the trade to any great extent of recent years. Italians constitute the major part of the new workers. Late years have shown more changes in the personnel of the workers in the union shops than formerly. Most of the Italian girls live with their own people, so the ideals as to the standard of living which the union instills into the newcomers reaches into the home life of the unassimilated immigrant.

The internal organization of the Garment Workers' Union presents no distinctive features. The annual agreements are sent out by the international headquarters. The local has never had occasion to make alterations to suit special needs, although

[11] *San Francisco Examiner*, April 12, 1901; April 28, 1901; October 12, 1900; September 19, 1900.

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permitted to do so by the international body. The initiation fee is $3 for journey-workers, and $1 for apprentices. An apprentice is allowed to work two months to determine whether she wishes to remain at the trade before she is required to join the union. The dues are fifty-five cents a month. Sick benefit of $5 a week is paid, and $100 is given in case of death. Regular assessments for the latter fund have been suspended, as the union found it was accumulating an unnecessary surplus. In case of a death a twenty-five cent special assessment is levied on each member. The expenses of conducting the union do not absorb the entire receipts, and the union has a substantial fund with which it could meet strikes or other emergencies.

Since its establishment the Garment Workers' Union has always taken an active part in the work of the general labor movement. Among the other organizations, the women of the garment workers are considered the most intelligent class as a whole in the entire body of trade-union women. Certainly they include in their membership a number of women of marked ability who play leading parts in the matters that concern the workers. There can be no doubt that this union has been an influence in keeping the line of development in the garment industry moving upward. They have been untiring in their educational activities and by means of label agitation, by speaking, and by investigations into the conditions of the trade in all its phases, the union has attempted successfully to create a sentiment and a standard that has prevented the industry from taking a turn downward to conditions of sweat-shop labor and low pay. Much of its educative work, such as that done in assimilating the Italian girls who enter the trade, is of that subtle kind which is a potent, but often unrecognized and unappreciated influence in bettering the lot of wage-earners as a whole.

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JOURNEYMAN TAILORS, NO. 2[1]

Out of a membership of some 700, about 250 are women in the Journeymen Tailors' Union. This shows a decrease from eight years ago when about half were women. The women vary in numbers, however, so no exact estimate can be given as to their permanent proportion to the men. They work at the simpler operations on coats, trousers, and vests. Some of the women are employed in factories and others are engaged in contract work, although this latter form is discouraged as much as possible by the union because it cannot control the shop conditions for contract work as it can for work done in the factory. While union members are found in all the San Francisco tailoring establishments, only three are closed shops.

The journeymen tailors have never had a general strike. Trouble has occurred in certain shops, but the trade was never involved as a whole.

The minimum wage for women journey-workers is $10.50 a week. Apprentices receive $6. Work is plentiful for women, the demand for their labor usually exceeding the supply. In this respect they are more fortunate than the men, for among the latter there are periods of marked unemployment, and during all seasons a few of the men are unable to find work.

As men work at a branch of the trade which is more highly paid than that of the women, a distinction is made in the amount of dues required by the union. For women, dues are seventy-five cents a month while for men they are $1 a month. The initiation fee is $2. In case of illness a sick benefit of $5 a week is given, and there is a death benefit of $100.

The women do not take an active part in the affairs of the journeymen tailors, although some have held office. The majority of them are young, and there is considerable shifting in the personnel of the women membership which prevents them from developing much interest or exerting any great influence upon the union.

[1] Several members of the union, the local secretary, Mr. Abrams, and the national organizer furnished this information.

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CRACKER BAKERS' AUXILIARY[1]

In 1902 an organization of the girls in the cracker industry was effected, but it lasted only six months because the girls could not agree among themselves.

In November, 1909, the girls who worked at the soda bench in one of the factories found themselves so overburdened that they were forced to ask for a decrease in the amount of work. The soda bench is a long table divided into bins, with a girl standing at each section. From the baking room below, the crackers are conveyed on a carrying apron and automatically dumped in equal portions into each bin. The girls pack the crackers into boxes, the work demanding a quick dexterity to keep the bins clear. So rapidly do the crackers accumulate that it is impossible to leave the bin unattended even for a moment, and, as the girls worked standing for nine and a half hours, they found the strain severe. A few weeks prior to November, 1909, speeding up was attempted on the soda bench in one of the factories. The girls found it an impossible task to keep their packing even with the steady stream of crackers which overflowed the bins. The fifteen girls employed in this department held a shop meeting, made their difficulty known to the manager, and requested a decrease in the speed. This was promised, but at the end of two weeks the speeding had begun again. Once more the girls held a meeting and stated their complaint. Another promise was given that the condition should be remedied, but ending with the same result as before. The third time the experience was repeated, the girls at the soda bench walked out.

The employer tried to induce the cake girls to take up the work but they refused and went out in sympathy with the others. After they had gone out on strike, the girls telephoned the secretary of the Labor Council asking for advice and help. The secretary replied that they could not receive assistance from

[1] Interviews with the employers, with Miss Daisy Mack, the secretary of the Cracker Bakers' Auxiliary, and visits to the factories supplied the facts about this union.

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the Council because they were not members of a union, and advised the girls to organize. This they were willing to do but some difficulties had to be overcome, for over half the girls were Italians, many of whom could not understand English. Moreover, while the cake girls sympathized with the strikers, they themselves had no grievance against the employers; they were poor and could not afford to be out of work. In order to keep up interest and enthusiasm among those who did not fully comprehend and who therefore might have given up, the strikers held daily meetings.

As soon as the girls agreed to stand together and act in harmony, the organizing committee of the Labor Council arranged for a meeting with the girls employed in the other two cracker factories in the city. Only the strikers and the employees of one of the factories came to this meeting. The Cracker Bakers' Auxiliary was organized at this time and the girls formulated a definite request which would remedy the conditions against which they were in rebellion.

The secretary of the Labor Council then called upon the employers of the strikers. The positions were being filled inefficiently by inexperienced hands and the employers were glad to come to some understanding. Through the instrumentality of the Labor Council secretary the trouble was adjusted, the demand for relief was granted, and all of the girls were taken back to work after being out only one week. Three extra girls were employed to assist at the soda bench, and this made it possible for the girls to meet the extra work occasioned by the increased speed.

The girls who had joined the union continued to work quietly among the unorganized employees of the other factory, and by the end of three months all of them had secretly affiliated. The next step was to get the union recognized in this factory. After a number of conferences with representatives of the Labor Council, the employers agreed to recognize the union, one of the chief arguments being that since the men were organized, it did not seem just to deny the same right to the girls. This was accomplished, however, only after six months of discussion. Three more meetings were held with the manufacturers before

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the first schedule was approved and signed on the seventh of October, 1910.

By the terms of this first agreement, hours were regulated, provision was made for necessary relief packers, and wages were increased. Nine working hours were designated for five days, and an eight-hour day for Saturday. Overtime was limited to three hours a day and, with holidays, was to be paid for at the rate of time and a half. Three relief girls were to be employed regularly on the soda bench of one of the plants and two relief girls for the same work at one of the other factories. These extra girls were to pack crackers and to relieve the others at the soda bench when called on, enabling each girl to have ten minutes free from work in the morning and ten minutes in the afternoon.

The wage established by this agreement was that soda girls were to be paid $1.75 a day and the relief girls who had less work and responsibility were to receive $1.50 a day.

The cake girls, who had been receiving $1 a day, were to be paid $1.25 after three months' experience. Inexperienced hands were to have $5 a week for six weeks, then $1 a day until they had worked three months. One of the factories agreed to pay $1 a day from the beginning to inexperienced girls.[2]

The icing-room girls were to receive $1.25 a day after four and a half months, and $1 a day before that with the exception of the first six weeks, when the minimum was $5 a week.

Wrappers are at piece work and average $10 to $12 a week. To earn this much swiftness and dexterity are required.

The work of the cake girls does not require the skill nor involve the physical strain that the work of the soda girls does, so the wage demand is not placed as high. The cake girls are engaged in packing cakes into boxes. From the baking room the cakes are conveyed on wire trays carried on a belt which moves very slowly. On either side of the belt the girls stand in a row and gather the cakes into neat piles on the narrow ledge before them. They then pack the cakes into the boxes. A man stands

[2] Miss Butler in the Pittsburgh Survey gives $5 a week as the usual wage for cake girls. Only three per cent in the entire industry earn over $7. Ninety-six per cent earn $3 to $6.99. *Women and the Trades*, pp. 69–70.

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at the end of the table and removes each tray as it reaches the end, dumping the remaining cakes into a large box.

In the icing-room much of the work is done by hand and the girls are seated most of the time. Two girls sit opposite each other at a table on which is placed a large pan of icing. The cakes are immersed in this by the handful and then passed across to another girl who rolls them in cocoanut and places them in rows on a large wooden tray. For another variety the cakes are first arranged on the trays and the icing is then dropped on them through a funnel attached to a bag-like top which is filled with the icing. Nuts, cocoanut, and fruit are sprinkled on by hand by other girls.

A machine is used for the simple process of covering a large number of cakes with plain icing. Racks with fork-like projections on each side are swung between narrow carrying belts. A row of girls seated on both sides of the table across which the racks move slowly stick the cakes on the projections. The cakes are carried on into the hands of a girl who sits in front of a huge trough filled with icing. She lifts the rack, immerses it in the trough, and hangs it back into place between the belts. As the conveyor moves on, the superfluous icing on the cakes is caught as it drips on a wide canvas belt which brings it back to the trough. The racks continue to move until automatically stopped in the position where they remain until dry, forming an attractive tier of iced cakes extending almost from ceiling to floor.

The union believes that the wage in the cake department should be raised, but does not think it wise to take up the matter until time has been given for the industry to adjust itself to the new law limiting the working hours to eight a day. The chief desire of the girls has been for an eight-hour day and since that has become effective by state law, the union is content to make no new demands for the present. Aside from the original increase of wages at the time the union was organized, no other change has been instituted.

When the eight-hour day first became the rule, the working hours were irregular and the employees felt considerable dissatisfaction because there was no definite understanding in regard

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to the shifts they might be called to work on. This has been adjusted without difficulty.

All the girls employed in the cracker factories now belong to the Cracker Bakers' Auxiliary, making a membership of over two hundred. A girl on first entering the industry is allowed to work six weeks before joining the union. Thirty days is given for making payment of the initiation fee, which is $2.50 for the girls earning over $1 a day, and $1.50 for those who earn less. The dues are forty cents a month, of which fifteen cents for each member goes to support the international body. Until January, 1911, the girls were merely auxiliary to the men's union, but since then they have separated and now have their funds apart. The girls meet twice a month, and twice a month there is a joint meeting of representatives from the pie bakers, bread bakers, cracker bakers, and cracker packers.

The officers are those customary in every union, a president, vice-president, recording secretary, financial secretary, a sergeant-at- arms, and three trustees. As yet no one gives her entire time to the work of the union and no business agent is employed.

A large majority of the girls in the cracker industry are Italians. The secretary of the organization is a pretty, efficient young American who works at the soda bench in the factory where the girls had their first trouble. The president is an Italian who has a good knowledge of English, the combination making her particularly valuable to the union, for many of the members are not familiar with the English tongue nor with American ideals and conditions.

The sacrifice of time and wages which the girls proved themselves willing to make for the sake of bettering conditions for their co-workers marked the beginning of this union's history and still shows itself in a tie of personal friendship among the members of the union. The Cracker Bakers' Auxiliary is noticeable for a feeling of personal responsibility for its members. The factories are situated at the edge of a bad district of San Francisco, and the older girls exert an effort to keep the members off the street during the noon hour. Reading is frequently the means employed. This form of endeavor may have been suggested by the fact that one of the factories had established a rest-room

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made attractive for the purpose of counteracting the effect of the street. The Cracker Bakers' Union, like the garment workers, is confronted with the problem of assimilating a foreign population unfamiliar with the society and the conditions of life into which they have come. It is meeting the problem in a spirit which displays a feeling of personal responsibility for each other which is more noticeable in this union than in any other.

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MUSICIANS' MUTUAL PROTECTIVE UNION[1]

The Musicians' Union is twenty-six years old and women have been included in its membership from the beginning. The total number of members is about 1200, but only forty or fifty are women, and of these not more than twenty play steadily. They are employed in moving-picture theaters and restaurants, and furnish music for dances.

The initiation fee in this union is $100. Dues are fifty cents a month. A death benefit of $100 is paid. A relief fund administered by a board of five is made up of ten per cent of the net receipts of the organization.

In the business of the Musicians' Union the women do not take any active part. Three-fourths of them are married or have some means of support which does not make them entirely dependent upon the profession for a living, and naturally they do not take the interest in the conditions that they would if their livelihood were more vitally concerned. With two or three exceptions, the women are willing to play for less than men will accept, a fact which causes considerable irritation toward them on the part of the general membership.

[1] The secretary of the musicians and several members furnished this information.

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OFFICE EMPLOYEES[1]

The union of office employees has been in existence a little over a year.[2] The membership is about 100, only ten of whom are women. These are girls employed in union offices or in establishments where the closed shop is the rule. The initiation fee is $1 and dues are fifty cents a month. The work of the union is as yet undeveloped. Office employees in general do not exhibit much interest in organizing, most of the girls who work in offices, in fact, declaring that they do not wish to belong to a union.

[1] Members of the Office Employees Union furnished this information.
[2] April 1, 1912.

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BOTTLE CANERS[1]

The membership of the Bottle Caners Union is made up of the men and women engaged in weaving the basket casings around wine-bottles. The work requires considerable deftness and is very hard on the hands, for the ribbon-like reeds frequently cut the workers' fingers as she handles her material. Some of the girls displayed long cuts on their fingers and across their palms which appeared sore and painful. Only forty-two people are employed in the two shops; ten are men and thirty-two are girls. The men cane the large bottles, and the girls work on the smaller sizes.

The initiation fee is $2.50 and the dues are thirty-five cents a month. A $50 death benefit is the only benevolent feature.

The Bottle Caners have been organized since 1896, the men in the trade starting the movement. No conditions of work or wages were behind the inception of the union, nor did the workers ask for any change when they were recognized. The bottle caners have had but one strike and that was some eight years ago.[2] The employees work at piece-work and had always been accustomed to coming and going as they pleased. The employers wish to lower the rate of pay and insist upon consecutive hours of work, to both of which the union objected. The strike lasted for five months and the shops did no work during the entire period, as they had a sufficiently large stock of bottles ready for the market to meet the demands of the trade. At the end of five months, the conciliation committee of the Labor Council intervened and the caners went back to work under the conditions existing before the strike.

The work is subject to seasonal changes, the girls being laid off for a month or two at times. The men earn $3.50 a day, and the women average $2 a day. The union has a rule which prohibits speeding up, so the above represents the maximum wage.

[1] The members were interviewed for these facts.

[2] The exact date could not be ascertained, probably 1902 or 1903.

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While the Bottle Caners' Union is small, it is highly spoken of by labor officials for its interest, intelligence, and fidelity in matters concerning trade-unionism in general. The girls are Americans, and taken altogether, form the most attractive group encountered in any of the industries.

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WAITRESSES' UNION, NO. 48[1]

In San Francisco in 1901, some five hundred girls were employed in restaurants. In addition to waiting on tables, they were expected to scrub floors and chairs, to clean the fixtures, and to wash and scour the silver and glass. They had to cut melons, make sandwiches, and prepare all the cold dishes, such as berries, butter, and salads, for serving. The work day was from fourteen to sixteen hours and the girls were expected to keep continually busy, no regular time even being allowed for meals. These waitresses worked seven days a week, receiving for their excessive toil $4 or $5.

The girls worked under a variety of difficulties. Conditions in the restaurants were unsanitary; the kitchens were dirty and poorly equipped. Under any circumstances, the occupation is one of the hardest a woman can enter. A waitress must carry heavily loaded trays, weighing from fiften to twenty-five pounds, over a slippery floor, every muscle being strained by the lifting, balancing, and walking required by her task. She must be quick and alert, must remember vaguely-given orders accurately, must often meet unreasonableness and insult with amiable indifference. These facts, coupled with long hours, arduous labor, and unsanitary conditions, made the lot of the waitress extremely hard.

The beginning of a change was instituted in January, 1901, when twenty-five waiters and waitresses held a meeting and determined to take active steps toward bettering working conditions existing in restaurants. For about five years the men had been organized into the Cooks' and Waiters' Alliance, but had not exercised much influence. After the meeting of January, the girls worked several months spreading interest among the others, and on April 2, 1901, formed a branch of the men's union.[2]

When 210 girls had been persuaded to join the sixty-three who had signed the roll in April, and the strength of the organization seemed sufficient, the workers decided to submit their schedule and make their new demands.[3] The schedule provided

[1] Members and officers of the union furnished the facts about this organization.

[2] *San Francisco Examiner*, April 3, 1901.

[3] *Ibid.*, April 30, 1901.

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that ten hours should constitute a working-day, and six days should be regarded as the working-week. Girls steadily employed ten hours a day were to be paid $8 a week; lunch and dinner girls, working three hours, were to receive $1.25 a week; girls serving on Sundays and holidays for four hours or less were to be paid $1.25; an overtime rate of twenty-five cents an hour was established. Recognition of the union was included in the demands.

The proprietors refused to treat with the union or to promise to conform to the schedule. Back of the position taken by the proprietors was the voiced determination of many San Francisco business men to destroy the growing power of trade-unionism. One proprietor said, "If we get no settlement every restaurant man in San Francisco will close his doors and there will be the bitterest labor fight this city has ever known. The wholesale merchants and the business interests of the city will be behind the restaurant men."[4]

During the first two weeks of the strike the trouble spread rapidly. Many waiters and waitresses joined their lot with the strikers, among them 200 waiters from the French and Italian restaurants.[5] The supply houses gave strong backing to the restaurants, some going to the extreme of refusing to sell provisions to the restaurants which were conducting business under union terms.[6] This action called for retaliation on the part of the labor unions, and sympathetic strikes were instituted; the teamsters refused to carry provisions to the non-union restaurants; the bakers declined to bake bread for establishments refusing to treat with the strikers; innumerable ramifications of sympathetic trouble displayed themselves in almost every industry in the city. For several weeks excitement ran high and the waiters and waitresses seemed to be on the highway to winning their contentions. Then, many of the employers began to declare that they had all the help they needed and were no longer inconvenienced by the strike.[7] On the other hand, some

[4] *San Francisco Examiner*, April 30, 1901.
[5] *Ibid.*, May 4, 1901.
[6] *Ibid.*, May 6, 1901.
[7] *San Francisco Examiner*, May 7, 1901; May 10, 1901.

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of the restaurants signed the agreement with the union, but not a sufficiently large number to give employment to all the workers.

No definite, satisfactory termination came to the strike. The trouble continued for six months and caused much suffering to the strikers. The employers denied that they maintained a blacklist, but nevertheless the union girls were repeatedly turned away without work at their own trade or in any other line in which they applied.[8] Their low wages had not permitted the girls to save any money. Many of them walked the streets and went hungry. Finally some of the girls left the city; others assumed a false name and went back to work under the old, hard conditions.

The waitresses had not abandoned their resolve to gain their contentions, but they employed more subtle means than direct action. The girls continued a diligent, steady, but quiet campaign of education which brought results both in working conditions and in power through an increasing membership for the union. The first concession gained was the one day out of each week and an allowance of half an hour for meals. Shorter hours, cleaner kitchens, and proper utensils all followed in time. By February, 1906, the workers had obtained most of the improvements toward which they had been directing their efforts. The membership had increased to about 400. In 1906 the waitresses formed an organization separate from the men, as they felt their problems were now distinct in many ways. All the crafts of the trade continue to have a joint board, however, which meets once a month. It consists of delegates from each craft, three waiters, three cooks, three bartenders, three dishwashers, and three waitresses.

Since the separation into a distinct union the waitresses have steadily added to their numbers and their influence. A regular office for the transaction of business is maintained. Three officers give their entire time to the work of the union and each receives a salary. The secretary who has charge of the office is paid $15 a week, and the two business agents each receive $10 a week. The president, vice-president, the inside guard, and the three trustees each receive $1 a month; the treasurer and the recording secretary are paid $2 a month. Paying these minor

[8] *Ibid.*, May 4, 1901.

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officials is not customary in other women's unions. A member may serve as an officer only a year at a time, when she must go back and work at the trade for six months before again becoming a candidate. This rule does not apply to those officers receiving a salary of less than $5 a month.

The activities of the union are supported by initiation fees and dues. The initiation fee is $2.80, of which $1 is due at the time of joining and the remainder inside of two weeks. The monthly dues were sixty cents, but were raised to seventy-five cents during the year 1911 because the expenses of the organization were greater than they had been in the past. If a member who is not ill fails to pay her dues for two months, she must pay twenty-five cents in addition to all dues for reinstatement. All white women who are working at the craft are eligible for membership.

Benefits are a feature of the waitresses' union. The local body pays a death benefit of $50 if a girl has been a member for thirty days, and if she has been a member for six consecutive months the international office of the union pays an additional $50. In case a member is in arrears for dues, fines, or assessments for more than thirty days, she forfeits all right to any benefit. The waitresses own a plot in the cemetry where any who die without relatives or friends are buried. The union also provides medical aid in case of sickness and makes a practice of helping any member who is in need by individual contributions.

That the waitresses' union has gained favor by its policies is evidenced by the fact that most of the restaurants that employ women in San Francisco have agreed to recognize the union and secure waitresses through its headquarters. This is a substantial victory in view of the hostility with which the first efforts of the girls were greeted. The organization has found favor with the employers because it has shown its willingness to coöperate in promoting their interests. The union has a rule that individually and collectively the members will interest themselves in protecting the business and trade of the employer under contract with the union. Responsibility is assumed by the union for any girl secured through the office. The waitress is required to give the employer notice if she expects to quit her work, eight hours'

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notice for those working full time, and three hours notice if she is a lunch waitress. A fine of $1 is imposed if she fails to do this. A girl who does not report for duty at the time specified is fined $1. If a waitress is required to work overtime by the failure of another girl to relieve her, the wages for the overtime must be paid by the one causing the extra labor.

Before the eight-hour law for women went into effect, ten hours constituted the working-day. Under that condition the following scale was paid:[9]

Ten hours on duty within 14 hours	$10.00 a week
Nine hours on duty within 14 hours	9.00 a week
Eight hours on duty	8.00 a week
Ten hours on duty at night work	11.00 a week
Lunch waitresses, 3 hours or less	1.00
Dinner waitresses, 3 hours or less	.85
Ten hours, special occasions, conventions, etc	2.50 a day
Banquets, parties, weddings, 4 hours or less	2.25
To set up, and serve 5 hours	2.75
Sunday lunch or dinner, 3 hours or less	1.25
To set up, serve and clear off, 6 hours	3.00
All overtime for restaurants, 1 hour or less	.35
Special uniform, white, extra	.50

After the law limiting women's working hours to eight a day, the following schedule was agreed upon between the proprietors and the union:

Seven and one-half hours within eight hours straight	$8.00 a week
Eight hours within 12 hours straight or broken	9.00 a week
From 6 to 12 P.M., night work	8.00 a week
After 9 o'clock at night	10.00 a week
Lunch waitresses, 3 hours or less	1.00
Lunch waitresses, 2 hours, 6 days	5.00
Sunday lunch or dinner, 3 hours or less	.85
All special occasions, conventions, etc., 8 hours	2.50
Banquets, parties, weddings, 4 hours or less	2.25
All overtime for banquets, 1 hour or less	.50

"Steady girls cannot shell peas, string rhubarb, peel apples; must not clean coffee urns, windows or ice boxes or scrub chairs. The lunch girls may not sweep, clean catsup bottles or mustard pots, or polish silver, and are not allowed to pick strawberries."[10]

During any convention or other special occasion resulting in the arrival of large numbers of visitors, when more than a usual

[9] Printed schedule of wages of Waitresses' Union.

[10] Printed agreement of the Waitresses' Union.

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number of employees is required, a regular girl must substitute on the seventh day of each week and must be compensated at the rate of time and a half. Relief waitresses working four days or less, eight hours within twelve hours, "straight or broken time," receive $2 a day. For more than four days a girl receives the usual wage of the waitress she relieves.

The personnel of the waitresses' union receives more criticism than is accorded to the women in the other unions. Various reasons seem to explain this attitude. The waitresses raise most of their funds for relief and sick benefits from their large annual ball. This ball provokes considerable disapproval. One of the main features is a bar, and from the sale of drinks the receipts are $600 to $800. The sum thus derived goes into the benevolent fund. The waitresses as a body and individually exhibit considerable more interest in municipal politics than do the women of other trade unions. This gives rise to many rumors that the waitresses include within their membership women who serve, from time to time, at least, in the type of cafe and resort which is always a factor in the darker side of municipal corruption. It is reported from numerous sources also that politicians of a certain class make use of the favor of the waitresses because the publicity of their work throws them in contact with people whom they wish to influence. All this is mere rumor, however. But, whatever the reasons and whatever conclusions it may suggest, it is undoubtedly true that the waitresses mix into municipal politics, and that during some administrations they have received marked favors in the way of municipal positions.

The waitresses union presents an interesting study of accomplishment. Its problems have been and are peculiarly difficult. It has moulded together a class of workers who are notably hard to weld. Unionism has taken this drifting, uncertain class and organized them into a body which has succeeded in establishing the occupation upon the basis of a standardized trade commanding a recognized wage and hours. Upon such a basis the work itself can command a respect which has been withheld, we should say unjustly, and with this much done, the union is in a fair position to solve some of the other problems which make life hard and sad for the girl who must seek her living in a none too generous nor sympathetic society.

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BOOT AND SHOE WORKERS' UNION

The distinction of being the first women to receive recognition as delegates to the Council of Federated Trades belongs to those employed in the shoe industry.[1] Theirs was the first organization coherent enough to demand a voice for women in the general direction of matters concerning labor. The girls employed in a shoe factory instituted a strike over hours, wages, and shop conditions in January, 1891, and formed the Boot and Shoe Fitters' Protective Union. A lengthy discussion ensued in the Council of Federated Trades to decide upon the propriety of seating the two women elected as delegates to that body. Many of the men felt that to admit women would be a serious departure from the practice and tradition established toward employed women. The opponents of the women argued that their presence would occasion embarrassment, restrain freedom of expression, and introduce a disrupting element. In the end the delegates were seated.

The Shoe Fitters' Union continued as an organization separate from the men for about nine years, and then, rather curiously, they lost their identity and became a part of the men's union because they were forced into a sympathetic strike with the men over a cause in which they felt little interest. In October, 1900, trouble started in the shoe factory over an order by the firm to two welters in the bottoming department which, it was alleged, would reduce the pay. The men were told to dip insoles by single pairs instead of by the dozen. The work would take much longer, and the men, who were at piece-work, could not earn as much by this method. The firm suggested that the men might hire a boy to do the wetting. This would cost the men $3 out of their weekly earnings of $18 to $21, and they declared that the firm must pay for the extra help. The trouble was referred to a committee of five, one of whom was the secretary of the men's union. Immediately after the meeting with the employer, the secretary of the union was discharged from the factory. This action occasioned much indignation among the workers. The men in the

[1] Interview with Mr. Walter Macarthur.

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same department as the secretary walked out at once, and the next day the men in the other departments decided not to return to work until the discharged secretary was reinstated.[2] The 85 girls in the shoe-fitting department were constrained to join the strike.

That the girls were out of sympathy with the action of the men is evident from the opinions they voiced at the time. "A score or more of the girls out of employment," writes one newspaper reporter, "when seen yesterday were outspoken in their opinion that the men should get over their squabbles and give them a chance to go to work again."[3]

"They forget," said one, "that we earn very little at the best, and this strike is not at all pleasant to us, no matter who is in the right or in the wrong."

Although the employer stoutly maintained that the reason for the discharge of the secretary had nothing to do with his connection with the union, but had resulted from his being habitually late and inattentive to work, after two days he was reinstated. It was decided that the men would not have to change the method of wetting the stock, or if they did, that the firm should pay the extra cost of employing a boy. The firm was in no position to hold out against its hands, for it was in the midst of work upon a government contract and could not keep the establishment closed without suffering great loss.[4]

The women's organization came to an end directly after this trouble,[5] nor have women taken any active part in union matters since. The few who do belong to a union are members of the general organization composed of both men and women and number only 39 in a membership of 130.

The Boot and Shoe Workers have had two strikes since 1900; one in 1909 resulted from a reduction in wages and ended successfully for the union. The issue did not stay settled, however, for in 1910 the same trouble arose and a satisfactory termination to the discussion has not yet been reached.[6]

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[2] *San Francisco Examiner*, October 9, 1900.

[3] *San Francisco Examiner*, October 10, 1900.

[4] *Ibid.*, October 11, 1900.

[5] Interview with Mr. Walter Macarthur.

[6] The secretary of the Boot and Shoe Workers furnished the facts about the present organization.

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GLOVE WORKERS, NO. 39[1]

The history of the Glove Workers' Union has been checkered and intermittent. The first organization was in 1885, but it lasted only a year and accomplished nothing. Seventeen years later, in 1902, the men and women in the glove industry united once more with a membership of 420. The direct cause of the formation of a union was the desire for a change in working conditions. The employees felt that the wage was too low, and the girls were indignant over the charge of fifty cents for power and fifty cents for rent of machinery which was exacted from them each month.

The factory proprietors were unwilling to meet the demands of the workers, so, in consequence, the new union went out on strike almost immediately after its organization. For eight weeks no agreement could be reached. The principle of the strike was upheld by the Labor Council, and that body and the other unions in the city furnished financial support. The end of the trouble was such that it is hard to determine where victory rested. Some of the proprietors refused to make any concessions, and their employees drifted back to work on the old terms, severing by degrees their connection with the union. This dwindling in numbers was a decided loss to the power of the organization. On the other hand, some of the factories agreed to grant certain changes which the workers demanded and to recognize the union. In these shops the employees received an increase of about twenty per cent in wages, and a reduction of the charge for power and machinery from 50 cents to 25 cents. While not gaining all they had hoped, at least the glove workers established a foothold.

The union continued to exist uneventfully until the earthquake of April, 1906. All the glove factories were destroyed and for several months no indication was shown that the industry

[1] The president of the union, Mr. Mahoney, and Mr. Paul Scharrenberg furnished the history of this union. Factories have also been visited.

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would be renewed in San Francisco. Three or four months later one factory started anew in West Berkeley, across the bay. This firm desired the union label and gathered together a small number of the old organization for operators. At this time all charges for power and machinery were abolished and a wage slightly higher than that given before was paid.

For five years San Francisco had no union of glove workers, for the old firms moved into the smaller communities away from the city, and the few small shops which remained opened as non-union establishments. In 1911, the factory which had been located in West Berkeley secured quarters in San Francisco. The union was disorganized for about six months at the time of the move, but formed again at the wish of the proprietor, who desired the use of the label.

It is not surprising to find in view of its history that the Glove Workers' Union numbers only thirty-five members. Since its re-establishment in San Francisco, the leaders are making an effort to spread its influence and enlarge the number. It cannot be a very powerful union, however, for only 100 people are engaged in the trade; the hope for expansion lies in the factories which moved into the smaller towns around the bay. They are gradually recognizing the union, chiefly, it must be said, because of the effect the use of the label has on the sale of the class of gloves made.

The work of a glove maker is highly skilled, calling for unusual dexterity and judgment. The girls say that they like the work and consequently but little shifting occurs in the personnel of the workers. The piece-payment system determines the wage, so considerable variation in the amounts earned is shown. Skill, length of time necessary to learn the process in which the operator is engaged, the responsibility involved, and the judgment required, all count in determining the rate of payment. The average earning is $12, but it is not uncommon to find girls who receive $14, $16, and $17 a week. No minimum wage is established. One girl who had been ill and who was learning a new machine on her return to work earned only $6. A limit has never been set to the number of apprentices.

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The women members of the Glove Makers' Union are of all ages, and are almost all Americans. Although the women outnumber the men in the union, they do not take much interest in its affairs; in fact, they refuse to hold office, and leave the business and direction of the union almost entirely in the hands of the men.

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UNSUCCESSFUL ATTEMPTS AT ORGANIZATION[1]

A few attempts at organization among women have failed to become permanent. An account of them consists of little more than an enumeration, for their existence was transitory.

In 1906, the telephone girls struck because of long hours, low pay, and various personal indignities which they suffered from the men in charge of the office. Ten per cent to twenty per cent of the women joined the union which was formed at that time. The employers would concede nothing and the girls gradually drifted back to work and the union dissolved. The girls who were employed at the time of the trouble all say, however, that conditions were remedied.

The flour and cereal mill workers have been organized several times, but the girls never agree or remain together for any length of time.

The bag workers in one of the San Francisco factories organized several years ago because they were imposed upon in the matter of wages and shop conditions. They at once instituted a strike and the employers conceded the demands of the girls. They went back to work and the union soon ceased to exist.

The box makers have been organized, but the union among the women soon died out. Most of the employees are young girls.

After the eight-hour day for women went into effect about twenty of the girls employed in the rope industry were told to teach their work to boys. Believing this to mean that all the eighty women were eventually to be replaced by men, the women struck against the order given to the twenty girls, with the result that they were all discharged at once and their places filled by men. The occupation involves heavy lifting and work over machinery which a woman's clothing renders particularly dangerous. It is a trade illy suited to girls, and the change to men seems to be desirable. The girls, however, came to the officials of the Labor Council and appealed for interference declaring their intention of forming a union. For such a case, naturally, the labor officials refused their support.

[1] Mr. Paul Scharrenberg, secretary of the State Federation of Labor, supplied this information.

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A SURVEY OF OBSERVATIONS

After a study of the women in trade unions and their position in the industrial life of the community, one naturally notes certain common features in their situation which seem to be directly due to organization. These characteristics which differentiate them from the general mass of the wage-earning women, will, obviously, be displayed in wages, hours, and shop conditions, but also, and, not the least importantly and significantly, in the personnel developed by organization.

Reviewing the effect of trade-unionism upon the wages paid to women, a few conclusions present themselves definitely. In every instance a rise in wages has followed almost immediately after a union was formed, and no explanation presents itself other than the influence of the organized action of the workers. The laundry workers forced an increase of about thirty per cent in the wage scale as soon as they asserted themselves as a united body, an action taken because attempts to better their lot by ordinances, laws, and outside regulation had failed. The bindery women, after six months of studying their own condition, were struck by certain facts about the steady decrease in wages which they had undergone that had failed to impress them until they met together in their union. They then demanded an increase for the unskilled workers of $1 a week more than the skilled had been receiving, and for the more efficient workers, an increase of $3 a week over the wage in force at the time of organization. While it required a strike to gain the point, the girls secured the increased wage purely by concerted action. The press feeders, while few in number, shared in the increase forced by the strike of 1905, a strike in which they played an active part until the desired condition was secured. The women of the Typographical Union present, from the earliest days, a marked contrast to the unorganized workers. They received $18 to $25 a week in the union shops, while the girls in other shops were paid only from $2.50 to $8 a week. Although the waitresses failed to force a

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higher wage for all the girls by means of a strike when they were first organized, they did establish their standard for a few, and it was directly due to the influence of organized action that they persistently pushed this standard until it has extended to the majority of the waitresses in San Francisco. While in certain lines, such as the garment trades and restaurant work, the higher wage might have come eventually, for, at present, the unorganized workers in these lines do receive the same wage as the union women, still, even in such instances, it certainly was the union that made the girls of the trade self-conscious agents in forcing the wage promptly to a higher level and in taking the initiative in setting a standard. In other trades, notably the laundry workers, cracker workers, and bindery women, it is very doubtful whether any appreciable increase would have come at all without the union. Trade-unionism in San Francisco, then, where it has developed sufficient power to be a constructive factor, has established a higher level of wages for women.

When we consider changes in shop conditions, the laundry workers again present the most striking example of a change wrought by unionism. The cracker workers, the waitresses, the glove workers, and the garment workers all afford illustrations of various changes. The evils of speeding up and of certain conditions of work which were injurious to health were especially attacked by the cracker workers and remedied by the action of the union. Speeding is still a feature of this industry and has developed the only instance of sabotage as a means of reaching the employer. When the trays of cakes and crackers are pushed upon the girls at a rate beyond their ability to keep even, they have adopted the practice of casting the excess amount upon the floor or into the refuse box when the eyes of the foreman are removed for an instant. How far the union may sanction such tactics does not appear, but it would seem to be a matter of personal temperament rather than a recognized means of fighting, for it is not practiced in all the factories.

The waitresses directed their protest not only against low wages and long hours, but also against unsanitary conditions and inadequate working utensils and persisted in their demands until they finally secured proper shop conditions.

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The glove workers and the garment workers both revolted against charges for machines, power, and necessary tools for labor. The abolishment of all such charges distinguishes the union shop, for they are still retained in a number of the non-union factories.

Such features as lunch rooms, rest rooms, and welfare secretaries are not included in the demand of any union. In fact, the union members are inclined to regard such movements on the part of the employer with a trace of suspicion that he may wish to use these improvements as an argument in his own favor in case higher wages were asked, a view they believe upheld by the fact that the establishments in the city which have done the most in the line of "welfare work" pay the lowest wages and are the least inclined to consider the point of view of the employees.

Trade-unionism has exercised a definite influence over the working hours, for they have been shortened and regulated in every instance. Most of the women in unions had the eight-hour day established long before the state law made it compulsory. It is not uncommon, however, to hear union women condemn a state law which prohibits women from working any overtime if they so desire. When the law first went into effect many resented it on the ground that it placed an unfair handicap upon women, since they must compete with men. In some industries they saw employment given to men because women could not work more than eight hours. The waitresses spoke especially of this result.[1]

The leaders in the Laundry Workers' Union favor the law on the ground that laundry work is so hard and involves such a severe strain that, even though the women wished to work longer, they ought not to be permitted to do so, for they will break down and lose in the end because of shortened years of capability. It was common for work in laundries to continue for an hour overtime, and, while the employees received the time-and-a-half rate for such work, those who favor the law declare that the money was not equal in its compensation to the advantages of an hour free for rest and recreation. Among the rank and file of the laundry workers considerable dissatisfaction was voiced at first.

[1] Since the interview with Miss Andrews in which this information was obtained, a movement has been instituted to establish the eight-hour day by union rule for men working at this trade.

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The law made a difference of several dollars a week in the amount that many of the women earned by putting in overtime, and they missed the additional money.

The bindery women felt the effect of the new law and were quite universal and open in their disapproval of the strict limit upon their working hours. During the busy season they all added substantially to their regular wages by doing extra work, Since the regular employees cannot now undertake this extra work, the binderies have had great difficulty in finishing orders promptly. The union had to give up its exclusive privilege of supplying workers through its office because the membership was not equal to the demand in the busy seasons. This means that the proprietor now secures any girl he can find and the new worker is then taken into the union. This increases the number of members who are occasional and less skilled workers and lowers the general tone of the trade, making it difficult for the union to keep up its standard of efficiency which had been a matter of pride and upon which the union founded the justification of its minimum wage demand. It must be said, however, that opinions on the eight-hour law and its effects are not stated as conclusive by any of the women. Discussion of its possible dangers as well as its benefits is natural. The girls in the trades which had not established an eight-hour day previous to the passing of the act have only favorable words for the law.

Among the benefits derived by women from trade unions, many of the most important are intangible, belonging to those subtle educational and social results which cannot be tabulated. The girls in discussing their unions all dwell upon these benefits as among the chief advantages they have experienced through their organization. To the girl facing the world in open battle for her living, the union offers a protection not to be lightly weighed in its social consequences. She always has friends who will come to her aid if she is out of work or in need, who will visit her if she is ill, supply her with proper care, and free her mind from anxiety about money necessities. This mutual assistance is accepted readily enough from union members where it would be resented or attended with humiliation if it came from outside. In fact, the working girls regard with resentment much

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of the so-called "social work," feeling that those who presume to improve their condition are undertaking to do so in a patronizing spirit which lacks the foundation of real knowledge and sympathy with their problems. The trade union woman has this feeling strongly developed. She is convinced that the laboring people themselves are more competent to work out a solution of their difficulties than any outsider could be. In much of the "social work" the women who have been trained in a trade union see nothing more than the evidence of the distinctions and barriers which have stood in the way of the workers gaining a hearing. They desire that independent self-respect shall be the recognized and established right of each person, and that industrial conditions shall be adjusted to make this possible. Philanthropic efforts in their behalf do not meet with their favor, for much of such effort appears to them an insolent intrusion or an attempt to substitute an inadequate palliative for a living wage. To them, the trade union with its power to educate the worker and to make effective the demands of the worker offers the proper medium for the solution of their difficulties.

As an educational stimulant, trade-unionism has undoubtedly been one of the most enlightening forces for development which has affected the wage-earning woman. Questions about industrial conditions come to her attention with real significance when she feels that through her union she may have a voice in deciding the answers to such questions. Among the leading women in the unions one meets with much clear and vital thinking and a broad wisdom touched with humor. At her meetings the trade union member must accustom herself to expressing her opinions. This drill develops a poise and self-confidence which makes it easier to face situations outside of union halls.

This realization of the power to be gained through organization and the need for the workers to watch out for their own interests led the women in the trade unions to take prompt action when California granted the suffrage to women. They almost immediately formed the "Humane Legislation League" and raised the funds for opening an office and paying a secretary to carry on the work of the league. Its purpose is to see that all the women from families of working people shall register and to

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carry on a campaign of education on all the political questions with special emphasis upon those which directly concern the working class.

Women are less apt to be aggressive in their manner of making demands than are men and the men have criticised their more patient methods of working gradually toward a desired result. The women hold that their way of handling difficulties results in less friction and gains them a readier hearing in the long run. For the same reason women favor the industrial form of organization. Jurisdictional disputes do not sap their time and strength. Thus the laundry workers employed in garment factories belong to the union of garment workers and all women who work in binderies are included in one union instead of being divided according to occupation as is common elsewhere.

While it is true that men were first in the field of organized action and have frequently been the instigators of organization among women, they have not dictated the terms of the demands the women saw fit to make. The attitude of the men when they first encouraged women to form unions was actuated not so much by the desire to better conditions for women as by the spirit of self-protection from the effect that women's competition threatened to have in causing wages to fall. This is marked in the earlier days of the movement when we find numerous complaints such as this, "While women have not been benefited to any considerable extent through the throwing open to her, of late years, of avenues of employment hitherto monopolized by men, the earnings of men have been reduced."[1] This hostile attitude broke out into open contention between the men and women in several instances, notably among the garment workers and the laundry workers. The men cutters discovering that the women would hold out for their own points were not satisfied to remain in the same union with them and were allowed to withdraw, but the women have since persistently refused to readmit the men. In the first days of organization the men in the laundry workers union attempted to submit a wage schedule which called for an increased wage for the branches at which men were employed but left the women on the old basis. The men knew

[1] *Coast Seamen's Journal,* April 1, 1891.

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that the employers would doubtless grant the larger wage to a part of the workers but that trouble might ensue if all the workers demanded more. The women refused any support to the measure and held out until the demand for a higher wage was extended to every branch. Where men and women work at the same branch of a trade the women, of course, receive the same wage as the men and there is no ground for controversy. Experience in contesting for their rights in union halls seems to have developed leaders among the trade union women. Wages, hours, and shop conditions have all shown the impress of the influence exerted by the organized action of the workers. But, if wages, hours, and shop conditions did not enter into the question at all, still trade unionism among women would show its results in a higher moral tone made possible by the security which comes from the knowledge that there are friends who will protect in time of trouble and offer hope for better days; it would display its influence in a more awakened and trained intelligence; it would make evident its effect in a happier attitude toward the day's work, arising from the fact that the worker herself has studied her industry and has participated in determining the conditions under which she earns her livelihood.

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APPENDIX

The following are characteristic of the letters and printed matter sent out by the Anti-Jap Laundry League:

FORM 1

"In behalf of the white boys and girls engaged in the laundry business of this city, we most urgently request your personal and earnest consideration to the following:

"The laundry industry, which has given to a considerable portion of our citizens a fair and substantial means of earning a livelihood is gradually being monopolized by Asiatic competition. According to reliable statistics the increase in the number of Japanese laundries during the past two years has been over 100 per cent.

"The continuation of this appalling rate means practically the elimination of our race from this field of industry. To prevent such a consumation we make a personal appeal to you (patron of a Japanese laundry) as a fellow-citizen of this community—asking you to make it possible through your patronage to give our boys and girls a fair chance of earning a White Man's Living in a White Man's Country.

"In this connection we point out a significant fact—that the Japanese, by no means, contribute toward your subsistence, and therefore have no claim upon your sympathy or support. On the other hand, the White Race, off whom you make your living exclusively, is entitled to your first consideration and patronage.

"Place yourself in a similar position to ours. If the Japs should invade your field of industry to the extent of forcing you to the wall (which is a possibility) would you not be entitled and justified in demanding the moral support of your fellow men and women to assist you in resisting the Mongolian invasion, that threatened your separation from the bread-and-butter necessities of life.

"Under these circumstances are we asking too much of you to desist from patronizing Japanese laundries?

"Hoping to hear from you we remain,

"Respectfully,

"ANTI-JAP LAUNDRY LEAGUE."

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FORM 2

"We desire to call your attention to a subject to which perhaps you have given but little, if any, thoughtful consideration and yet it is one that to a great extent menaces your individual prosperity.

"Perhaps you do not realize that you are rendering aid and financial support to those who are more than likely later on to encroach upon your present means of earning a living. We refer to the fact that if our various sources of information be correct a Jap calls for and receives your laundry each week.

"We cheerfully concede your right to patronize whom you choose. We are simply appealing to your sense of right and justice to others of your own Race.

"At present, among the limited avenues of employment open to women, a great many White Girls depend upon the laundries as their means of support. To you comes the question direct—a question that is in your power to answer:

"For the few cents a week difference in your laundry bill, can you afford to help make life harder for our working girls by favoring the Jap, who has no interests in common with your own? By patronizing a Jap you help reduce the White Girls' Standard of Living and you are also advertising the Jap—for a Japanese laundry wagon at your door means that others, seeing your example, may be inclined to follow it.

"Again we appeal to you to look at the matter from this point of view, feeling fully confident that when it comes to a question of White or Jap you can but decide in favor of your own Race, on whom you also depend for your means of Happiness and Prosperity.

"Will you help us maintain White Man's Standard in a White Man's Country? Believing you will, we remain,

Respectfully,

"ANTI-JAP LAUNDRY LEAGUE."

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FORM 3

"DEAR SIR:—In the battle we are waging on behalf of the white Women and Girls of our city, who are gradually being forced out of an avenue of employment that rightfully belongs to them, by Japanese competition, a competition that no one can successfully meet and maintain a White Man's Standard of Living, we have learned much to our satisfaction that only a very small percentage of Union people are giving their patronage to the Japs—and have upon our files letters from a great many Unions, including your own, informing us that a fine will be exacted from any member found guilty of patronizing Jap laundries.

"Evidence that to us seems conclusive has been received at our Headquarters, to wit:—That on Saturday, October 3rd, about 3 P.M., you entered a Jap laundry on Laguna street, receiving therefrom a package of laundry. That the cordialities exchanged between yourself and the Jap therein, indicated that you were one of his regular customers. From said laundry you wended your way to the headquarters of your Union, carrying said package of laundry with you.

"While we concede to every man and woman the right to bestow their patronage upon whom they may choose—we hold that no **UNION MAN**, ENJOYING THE BENEFITS OF AN INCREASED WAGE AND BETTER WORKING CONDITIONS, can consistently, by spending his money with Oriental or SCAB LABOR, deny to others the benefits he is himself receiving as a member of a Labor Union.

"We would be pleased to have an expression of your sentiments along these lines, for the reason that before bringing such cases to the attention of the Union, of which we presume you are a member, we would give you a chance to reply, fully believing that did you even slightly realize the grave dangers menacing nearly every industrial line in our city and state from this blight of Jap competition, you would conclude that not even 'a discount of 15 per cent on bundles over one dollar' would be enough inducement for you to aid a race that so gravely menaces our future prosperity.

"Sincerely yours,

"ANTI-JAP LAUNDRY LEAGUE."

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CAN WE COUNT ON YOU?

"Fellow Citizen:—

"Is a white man or a Japanese handling your laundry work?

"The laundry industry, which has given to a considerable portion of our citizens a fair means of earning a livelihood is being gradually monopolized by unfair Asiatic competition. Perhaps you do not know that there are over twenty large Japanese laundries in this City, and that Japanese competition in the laundry business has increased over 100 per cent within the last two years.

"And what, we ask you, will this success of the Japanese in the laundry business, if not checked, result in? For an answer, look at the condition of the Hawaiian Islands where Japs do 75 per cent of all work, where almost every business, professional and otherwise, is controlled by the cunning Oriental, and where the population, once white, is now mainly yellow.

"How long will it be, think you, before this tide of Asiatic Competition will have swept away the business of American tailors, grocers, retail dry goods stores and shoe stores.

"How long, Mr. Mechanic, Mr. Electrician, Mr. Chauffeur, do you think it will be before the Japanese students of our technical schools will be underbidding you?

"How long, Mr. Bank Clerk, Mr. Lawyer, Mr. College Professor, do you think it will be before even your dignified calling will be invaded by the Japs?

"As things are now, it will not be long, dear reader, until public opinion, having become calloused by continual meeting and patronage of the Jap in easily assailable occupations, will accept his services in all lines.

"HELP US NOW, THEN, DEAR FRIEND, TO FIGHT THIS FIGHT, WHILE YET IT MAY BE FOUGHT. Believe us, be convinced that we and the other industries already attacked are but the van of the great bulk of California industrial and merchant classes that this yellow wave is surely and by no means slowly reaching.

"We appeal especially to you, Mr. Union Man, and to you Mr. Small Merchant. It is not only your laundry business we want, we want you to help bring your friends.

"HELP US TO CREATE A PUBLIC SENTIMENT IN THIS MATTER.

"THINK ABOUT IT. READ ABOUT IT. TALK IT OVER.

"ANTI-JAP LAUNDRY LEAGUE."

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MEN AND WOMEN!

Protect Your Homes from

Loathsome Oriental Diseases!

"That the patrons of Oriental wash-houses are constantly exposing themselves to dangerous diseases is obvious from the complaints of the Health Officer on Japanese laundries, of which the following extract is a sample:

> " '**The walls and ceilings of the rear portion of the laundry, together with those portions occupied as places of lodgings, are encrusted with filth and dirt and in part denuded of paper; further, the wooden flooring of that portion used as a laundry is in close proximity to the surface soil, forming A FAVORABLE PLACE FOR THE HARBORING AND BREEDING OF RATS AND OTHER VERMIN, ALL OF WHICH CREATES AN UNSANITARY CONDITION THAT IS A NUISANCE AND MENACE TO LIFE AND HEALTH.**'

"Further, the Japs eat, sleep, drink and smoke in the same room in which your laundry work is done.

"This, exclusive of the injury you are inflicting upon your white brothers and sisters by forcing them from the employment that rightfully belongs to them, should cause you to consider well before again patronizing an Oriental laundry.

"Are you willing, for the purpose of saving a few cents per week, to endanger the health of yourself and those near and dear to you?

"Shun the JAPANESE LAUNDRIES. They are the breeding places of Oriental diseases.

"ANTI-JAP LAUNDRY LEAGUE."

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WILL THE JAPANESE PREDOMINATE?

"Shall it be that the Japanese element of the Pacific Coast will control our affairs, or will they be subject to the dominant influence of their predecessors, the Caucasians?

"The answer depends entirely upon the action taken now by the White Race. If we stand idly by, while the Japanese monopolize industry after industry, will we have just cause for complaint after our Western Civilization has been absorbed by the Asiatics and their Oriental morals and cheap standards of living?

"Are you aware of the fact that the Japanese have practically monopolized nearly every line of business in the Hawaiian Islands, and are in control of fully 90 per cent of the industrial fields?

"Do you realize that the Japanese have conquered our Vaca Valley, are making vast inroads in the San Joaquin Valley, are monopolizing the vineyards in Fresno County, and are in complete control of the potato output of the state and have **increased the price of this commodity fully 75 per cent.**

"If you doubt the dangers resulting from Japanese occupation and competition in our midst, consider well these official figures: Despite the financial stringency of the times, the little brown men are **shipping annually to Japan** from San Francisco, Seattle and Honolulu, **over $10,000,000.00.**

"This is not merely a future, but a PRESENT DANGER, most grave and alarming. Take for instance the Laundry Industry. This business which has given to a considerable portion of our citizens a fair means of earning a livelihood, is being rapidly monopolized by Asiatics. Perhaps you do not know that there are eighteen large Japanese laundries in San Francisco at the present time, and this competition in the laundry business has increased over 100 per cent in San Francisco and San Mateo counties within the past two years.

"And the tide of Asiatic competition is already reaching the American tailors, grocers, retail dry goods merchants, shoe dealers, etc. How long, then we ask you, will it be before you find yourself in the same position as the Laundry people, with the same gigantic struggle confronting you?

"And to you Mr. Capitalist. If it is possible for the Japanese to completely monopolize a residential section, as they have in certain parts of this city, can they not spread this monopolization at will? And is the desirability of a residential section, or the value of adjacent property, enhanced by the presence of these Orientals?

"**The solution of the problem lies with the people. The only way to successfully combat the inroads of the Japanese is to refuse to patronize or employ them in any of their industries.**

"ANTI-JAP LAUNDRY LEAGUE."

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A FINANCIAL HISTORY OF CALIFORNIA

PUBLIC REVENUES, DEBTS, AND EXPENDITURES

BY
WILLIAM C. FANKHAUSER

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PREFACE

In preparing this monograph, the primary purpose has been to compile the material which may be sought by those who desire to inform themselves of the financial history of California. The facts herewith offered to the public have been, for the most part, found in the statutes of California, the court decisions, the governors' messages, the reports of the controllers, state treasurers, attorney-generals, state boards of equalization and legislative committees and commissions. No attempt has been made to criticise the revenue system of California for the simple reason that its defects, and the subject of tax reform, were considered in an exhaustive manner by the commission on revenue and taxation, whose reports published in 1906 and 1910 are available to all.

Different methods have been employed in presenting the subjects of state receipts and expenditures. This was necessary because of the more frequent changes in the revenue laws than in the policy of state expenditures. The discussion of the former has been divided into five periods: the first, from the beginning of the state government to 1860, the outbreak of the Civil War; the second, from 1860 to 1872, the date of the adoption of the codes; the third, from 1872 to 1880, when the constitution of 1879 went into effect; the fourth, from 1880 to 1895, which year approximately marks the close of the era of railroad tax litigation; the fifth, from 1895 to 1910, in which year a new revenue system was adopted. Throughout the five periods, the general property tax, the principal source of revenue, has been discussed from the point of view of the base, the exemptions, the assessment of property, the equalization of assessments, the state tax rate, the collection of state taxes and the enforcement of the collection of the state tax. In addition to the property tax, some attention has been given to the state license taxes from 1850 to 1872; the poll tax; the inheritance tax; the corporation license tax; and various miscellaneous sources of revenue. Other topics which are dis-

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cussed in this monograph are the "civil fund," the constitutional provisions concerned with taxation, the federal direct tax controversy, the attitude towards legal tender notes in California, the claims of California against the federal government, the history of the tax reform movement which led to the adoption of a new revenue system in 1910, the more important features of the new revenue law, the state debt, etc.

The last chapter is devoted to the presentation of the subject of state expenditures. In order to keep the discussion of state expenditures within a reasonable compass, we have prepared tables showing the administrative, the legislative, judicial, legal, printing, educational, charitable, benevolent and certain miscellaneous expenses. An effort has been made to interpret these tables, which, together with others scattered throughout the monograph, are by the author considered among the most valuable parts of the thesis.

Acknowledgment is made of the assistance received from the Carnegie Institution of Washington, D. C., in the collection and preparation of statistics for this monograph. The author is also indebted to Professor Carl C. Plehn, who has read the manuscript and offered many valuable suggestions. Appreciation is likewise due to the members of the economic seminar of the University of California for their criticism on parts of the work.

William C. Fankhauser.

Berkeley, California, April 26, 1912.

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CHAPTER I

INTRODUCTION

1. Spanish Revenue Laws

Although this thesis is confined mainly to the period since the American occupation, a few words concerning the Spanish and Mexican revenue laws in California will aid to an understanding of the early trials of the state treasury and especially of the so-called "civil fund." At the very outbreak of the war between the United States and Mexico, the United States authorities modified the existing Mexican revenue laws, but continued them in force, in their modified form, for a time under military authority. After the close of the Mexican War and up to the time the United States established a customs district, the customs duties were collected under the direction of the civil governors of California. All money so collected was kept in an account under the name of the "civil fund" and afterwards became the subject of one of the most violent of the many financial controversies between the state of California and the federal government.

The methods by which the exploration, acquisition, settlement, and early government of California, in the days of Spanish rule, were financed are unique and interesting, but they are aside from our present purpose. It was only the old customs duties that were taken over by the new government. California originally contributed much less to the royal treasury of Spain than she drew from the "Pious Fund" and other sources. The Spanish governors were authorized to levy duties on imports and exports, but the amount of trade was so small that the receipts were insignificant. As typical of the later Spanish customs duties, we may cite those imposed by Governor Sola, who in November, 1817, levied a duty of 12 per cent on the selling price of all imports. In addition, he levied, among others, an export duty of 19 cents per *arroba* on tallow, 37 cents on soap, 37 cents per *fanega* on

[1] Bancroft, *History of California*, vol. 2, p. 419.

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beans and corn. In 1820, he reduced the duty on imports to 6¼ per cent. Goods purchased for the use of the church or the padres were exempt.

Besides the receipts from import and export duties, the Spanish government obtained a small amount of revenue from the sale of indulgences;[2] from the annual tithe exacted from all settlers who had been in California more than five years; from the *rancho del rey;* from the annual tribute of one *fanega* of corn levied on each settler; from the postal service; and from the sale of tobacco—a government monopoly. In 1821, the last year of Spanish rule, the total governmental receipts, exclusive of various contributions consisting of goods, clothing, cattle, timber, and labor, were about $35,000.[3]

2. Mexican Commercial Regulations and Customs Duties

In 1822 California became a province of Mexico.[4] The Mexican government at once removed many of the trade restrictions imposed by the Spanish, and welcomed all foreign vessels to engage in California trade. The law of 1822[5] levied an import duty of 25 per cent; an export duty of 12 per cent, 6 per cent of which had to be paid by the seller and 6 per cent by the buyer; an anchorage tax of $10.50 on each whaler; and a 25-cent tonnage duty. The act of April 12, 1823,[6] enacted to raise funds to build and repair public highways, to support and maintain schools, and to defray the cost of legislation, levied an export duty of 6 per cent; a tax of $8 to $10 on every barrel of brandy; a tax of $4 on every barrel of wine; a slaughter tax of one *real* on each head of cattle or sheep killed, and a tax of two *reals* on each hog killed. In 1825 the export duties[7] were abolished. During the same year an *internacion* duty of 15 per cent and an *averia* duty of 2½ per cent were added to the 25 per cent import duty levied in 1822. Moreover an anchorage tax of $10 was levied on each vessel; and the tonnage tax raised to $2.50 per ton.[8]

[2] Bancroft, *History of California,* vol. 1, p. 632.

[3] *Ibid.,* vol. 2, p. 439.

[4] Mexico, by Iturbide's proclamation, became an independent and sovereign nation in 1821. *Ibid.,* vol. 2, p. 430.

[5] *Ibid.,* p. 473.

[6] *Ibid.,* p. 494.

[7] *Ibid.,* p. 521.

[8] *Ibid.,* vol. 3, p. 117.

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Though the ports of California had been opened to foreign traders, the exaction of high duties and port charges encouraged smuggling. To wipe it out, the Mexican governors from time to time issued decrees closing certain ports to foreign vessels and imposing restrictions on coastwise trade. Thus, in July, 1832, Governor Echeandia promulgated an order, declaring that all coasting trade had to be carried on in Mexican bottoms, and that foreign vessels could enter no ports except Loreto and Monterey. In spite of this order, and the reduction of the *internacion* duty to 10 per cent, smuggling continued. In 1835 Governor Victoria declared Monterey to be the only legal port of California, prohibited vessels from engaging in retail trade and sanctioned the payment of duties in kind. A law enacted during October, 1833,[9] relieved all citizens from the civil obligation of paying tithes. The question of municipal revenue was considered frequently in the meetings of the *ayuntamiento* and *diputacion* from November, 1833, up to the time the governor published a law or plan on August 6, 1834.[10] A decree issued December 9, 1836, by Governor Juan B. Alvarado, fixed the tonnage duties at 8 *reals* per ton and the duty on imports at 40 per cent. National vessels having obtained a government certificate were allowed to engage in the coastwise trade. In 1841 persons engaged in the whaling industry, because of their threat to withdraw from the California coast and establish their base of supplies in the Sandwich Islands, were exempted from the tonnage and anchorage taxes. In 1843 there was issued an order which required foreign vessels entering any port other than Monterey to take on board a guard and proceed

[9] Bancroft, History of California, vol. 3, p. 380.

[10] The law published August 6, 1834, established among other charges the following fees and license taxes: grantees of town lots, 100 varas square, for building purposes had to pay $6.25 and 25 cents per front vara for a smaller lot, or for the excess in a large one; $1.50 was charged for the granting and registration of a brand for cattle; $6.25 per head for killing cattle or sheep for the market; 25 cents per head for killing hogs for the market; $1 per month for every shop for the sale of dry goods; 50 cents per month for other shops, grocery stores and barrooms; $2 for each performance by a circus or other show; $1 per month for billiard rooms; 12½ cents for each parcel landed from a foreign vessel; 6¼ cents for each parcel landed from each national vessel; $3 on each auction sale; 50 cents on each otter or beaver skin; $3 per bbl. on national brandy; $2 per bbl. on angelica; $1.50 per bbl. on wine; $1 per bbl. on foreign brandy; $1 on gin and 50 cents per gallon on wine and beer, etc.

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to Monterey as soon as possible to pay the customs duties. Having paid these charges, the vessels were allowed to engage in the wholesale and retail trade. This was the last important commercial regulation which Mexican officials attempted to enforce in California. In 1840 the customs receipts amounted to $158,000; in 1842, to $74,000; in 1843, to $52,000; in 1844, to $75,625 and in 1845, to about $140,000.

3. The Civil Fund

On May 12, 1846, James K. Polk, President of the United States, received from General Zachary Taylor a report stating that the Mexican forces had crossed the international boundary line and had attacked the American troops in territory claimed to be a part of Texas. The President at once asked Congress to declare war against Mexico. An act of May 13, 1846, carried out the request of the President and authorized him to call for 50,000 volunteers. Colonel S. W. Kearney was put in command of the troops, who were to conquer the northwestern territory of Mexico, comprising what is now New Mexico, Arizona and California. On June 3, 1846, Secretary of War W. L. Marcy gave General Kearney, among others, these confidential instructions:

> It has been decided by the President to be of the greatest importance in the pending war with Mexico, to take the earliest possession of Upper California. . . . Should you conquer and take possession of New Mexico and Upper California, or considerable places in either, you will establish temporary civil government therein . . . . abolishing all arbitrary restrictions that may exist, so far as it may be done with safety. In performing this duty it would be wise and prudent to continue in their employment all such existing officers as are known to be friendly to the United States, and will take the oath of allegiance to them. The duties at the custom-houses ought, at once, to be reduced to such a rate as may be barely sufficient to maintain the necessary officers without yielding any revenue to the government.[11]

As early as June 24, 1845, Secretary of the Navy George Bancroft issued orders to Commodore John D. Sloat,[12] commanding

[11] 29th Cong., 2nd Sess., Ex. Doc., no. 19, p. 6.

[12] Thomas, *Military Government*, p. 159.

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the United States naval forces in the Pacific, to capture, in case of war with Mexico, the harbor of San Francisco and such other ports as he might be able to hold. On July 7, 1846,[13] Commodore Sloat raised the American flag at Monterey and proclaimed California to be a part of the United States. On July 9, John B. Montgomery, commandant of the United States ship "Portsmouth," took possession of the island of Yerba Buena in the harbor of San Francisco. Two days later, the "Bear Flag" raised at Sonoma on June 14, 1846, when the "Republic of California" was established, was hauled down and the United States recognized as the sovereign power in Upper California by the American and foreign population.

On July 23, 1846, Commodore Robert F. Stockton was given command over the American forces on the west coast of Mexico. Shortly after his appointment, he issued a proclamation annexing Upper California to the United States, and proceeded to establish a civil government for the newly acquired territory.[14] To secure money to pay the expenditures of the government, Commodore Stockton decreed that after August 15, 1846, all foreign vessels arriving in the ports of California must pay a fifty-cent tonnage tax and an *ad valorem* duty of 15 per cent on all imported goods. The goods were to be appraised by two disinterested persons. The duty was payable in three equal installments: the first within thirty days after the arrival of the vessel, the second within sixty days, and the third within one hundred and twenty days. To keep proper account of the revenues, the authorities established early in 1847, what was known as the "civil fund." Into this fund were paid the receipts from customs duties collected prior to November 12, 1849, when Mr. Collier, appointed by President Zachary Taylor, assumed the duties of the collector of customs at the port of San Francisco. The so-called "civil fund" is of interest to us, because of the probability that the six-month temporary loan of $290,000 at 36 per cent interest per annum—discussed later—would not have been necessary had the money in the fund been paid into the state treasury as was expected, and because of certain claims against the federal government.

[13] 30th Cong., 2nd Sess., Ex. Doc., vol. 1, no. 1, p. 1015.

[14] 29th Cong., 2nd Sess., Ex. Doc., no. 19.

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On March 31, 1847, President Polk approved what is known as the military contribution tariff. The rules, regulations and rates of duty were prepared by R. J. Walker, the secretary of the treasury, with the purpose of forcing Mexico to enter upon peace negotiations, or to bear the burden of the war. The tariff applied to all ports and places on the gulfs of Mexico and California, on the Pacific Ocean, or on any navigable river emptying into any of the said gulfs or ocean, which were or might be occupied by the American forces. The decree declared all such ports open to all but Mexican vessels; levied a tonnage tax of one dollar in lieu of all other port charges; levied many high specific, and a few *ad valorem* duties; required all goods to be unloaded at the first port of entry; permitted only American vessels to engage in the coasting trade; defined military stores as contraband of war; annulled all Mexican monopolies and prohibitions, and admitted mining machinery and United States stores free.[15] The new tariff regulations were not received in California until October. Governor Mason and Commodore Shubrick decided not to enforce the military contribution tariff so long as the Californians remained submissive. They issued a new series of regulations which differed in many respects from those announced by the President. For the specific duties they substituted an *ad valorem* duty of 15 per cent; they reduced the tonnage duties; they ignored the rule which required all of the cargo to be landed at the original port of entry; they permitted all vessels owned in California to engage in the coasting trade; they allowed the products of the country to be shipped free of duty from one port to another, and placed lumber on the free list. While the federal authorities did not heartily endorse the action of the local officers, they never countermanded the regulations drawn up and

[15] The schedule of rates is too long to quote in full, but the most important ones may be of interest to some: Pig-iron, ½ cent per lb.; brown sugar, 3 cts. per lb.; molasses, 5 cts. per gallon; smoked or jerked beef, 1 ct. per lb.; smoked ham or bacon, 6¼ cts. per lb.; butter, 6 cts. per lb.; rice, 2 cts. per lb.; Indian corn, 10 cts. per bu.; wheat, rye, oats and all other grains, 40 cts. per bu.; potatoes, 20 cts. per bu.; apples, $10 per bbl.; hewn timber boards, planks, scantlings, $10 per 1000 ft.; shingles, $2 per 1000; laths, 50 cts. per 1000; boots, $1 per pair; salt, 15 cts. per bu.; teas, 40 cts. per lb.; tallow candles, 6¼ cts. per lb.; demijohns, $3 per doz.; raw cotton, 2 cts per lb. (30th Cong., 1st Sess., Senate Doc., no. 1, p. 567.)

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enforced by them.[16] Under the customs regulations inaugurated by the United States military officials there was collected in California during the Mexican War and up to August 7, 1848, the sum of $72,306.39. During the same time the expenditures amounted to $39,886.48 for military and $7,088.51 for governmental purposes.

The treaty of peace, closing the Mexican War, was signed February 3, 1848. On May 30, 1848, ratifications were exchanged at Queretaro. The news of the cessation of hostilities and the subsequent ratification of the treaty did not reach Governor Mason until August 7, 1848. Upon the receipt of the news, he found himself on the horns of a dilemma. On the one hand, the laws of the United States prohibited the importation of certain goods, wares and merchandise except upon the payment of the duty prescribed by law. And, on the other hand, Congress had failed to extend the revenue laws to the annexed territory, to establish a port of entry, or to appoint any revenue officials. Difficult as the situation was, the governor was not to be daunted by the negligence or inactivity of the federal authorities. He fully realized the necessity of a civil government in California, and anticipated the destruction of local industries if foreign goods were allowed to be imported free. Through Mr. Halleck, secretary of state of California, he informed the army and navy officers in charge of the work of collecting customs duties, that they would be relieved as soon as possible, by the appointment of civil officers, but until such appointments were made, they were to enforce the United States tariff law of 1846.[17] He likewise informed the

[16] Bancroft, *History of California*, vol. 4, p. 573.

[17] Under the tariff act of 1846, articles of import were divided into various schedules, designated by the letters of the alphabet as follows:

A. Included brandy, spirits, etc., rate 100 per cent.

B. Included spices, preserved fruits and meats, tobacco, rate 40 per cent.

C, D, E, F, included most of the ordinary articles of commerce, which were taxed 30, 25, 20, and 15 per cent respectively.

G. Included books, building stone, diamonds, watches, rate 10 per cent.

H. Included various articles, manufactured or raw materials used in existing industries, rate 5 per cent.

I. Included coffee, tea, copper ore, and a few other commodities which were admitted free. See Dewey, *Financial History of the United States*, p. 250–251.

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secretary of war of the United States and through him the secretary of the treasury and the President that he would enforce the tariff act of 1846 until he should receive contrary instructions from Washington.

Although numerous questions in regard to the United States revenue laws and California were presented to Secretary of the Treasury R. J. Walker, it was not until October 7, 1848, that he felt it incumbent on himself to issue the following instructions and regulation to United States customs collectors:

1. All articles of the growth, produce or manufacture of California, shipped therefrom at any time since the 30th May last, are entitled to admission free of duty into all the ports of the United States.

II. All articles of the growth, produce or manufacture of the United States, are entitled to admission free of duty into California, as are also all foreign goods which are exempt from duty by the laws of Congress, or on which goods the duties prescribed by those laws have been paid to any collector of the United States previous to their introduction into California.

III. Although the constitution of the United States extends to California and Congress has recognized it by law as a part of the Union, and legislated for it, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue accruing on the import of foreign dutiable goods into that territory. Under these circumstances, although this department may be unable to collect the duties accruing on importations from foreign countries into California, yet, if foreign dutiable goods should be introduced there and shipped to any port or place in the United States, they will be subject to duty, and also to all penalties prescribed by law when such importation is attempted without the payment of duties.[18]

Governor Mason did not interpret these instructions as contrary to the policy which he had introduced. He continued tc enforce the tariff act of 1846, as did his successor, General Bennet Riley, who become governor on April 13, 1849. On July 1, 1849, Governor Riley appointed Major R. Allen civil treasurer of California. Upon his appointment, the money previously collected, and in the custody of the quartermasters of the United States army, was turned over to the civil treasurer. On November 12 of the same year Mr. Collier, appointed by President Zachary Taylor as collector of customs at San Francisco, assumed the duties of

[18] 30th Cong. 2nd Sess., Ex. Doc., no. 6, p. 45.

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his office. After Collier's appointment, the enforcement of the United States revenue laws in California was under the immediate and direct supervision of the federal officers at Washington.

The customs duties collected in California prior to September 9, 1850, have a threefold character:

1. The revenues, amounting to $72,306.39, collected during the war with Mexico and up to August 7, 1848.

2. The revenues, amounting to $1,365,187.32, collected from August 7, 1848, to November 12, 1849, when Mr. Collier became collector of customs at San Francisco.

3. The revenues, amounting to $1,603,561.08, collected from November 12, 1849, to September 9, 1850, when California was admitted to the Union.[19]

During the discussions in the constitutional convention of 1849, delegates expressed their opinions that the customs receipts just mentioned belonged to California. Similar opinions were expressed at different times by local representatives of the federal government, but almost as soon as the establishment of the state government was no longer a mere conjecture, these officials became more conservative in their statements and hesitated to execute their former promises. In a letter dated October 1, 1849, and addressed to R. Jones, adjutant general of the United States army, Governor Riley said: "Many have expressed the opinion that the funds should be turned over to the new government, to enable it to go immediately into successful operation. However strongly of the opinion that this money belongs, in justice, to the people of California, I nevertheless shall not deem myself authorized to turn over this money, till instructed to do so by direct orders from Washington."[20] In January, 1850, the civil treasurer received orders from Washington to turn the money in the "civil fund" over to the United States war department, to be held by it subject to the final decision of Congress. This action of the federal officials left the state government in a critical and precarious condition. The state treasury was empty, for the time had been too short to inaugurate a revenue system.

[19] App. to the *Cong. Globe*, 30th Cong. 1st Sess., vol. 29, p. 71–74.

[20] *Senate Journal*, 4th Sess., p. 186.

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A few years after the establishment of the state government, California attempted to recover from the federal government the money collected by customs officials between August 7, 1848, and September 9, 1850. For the amount collected during the Mexican War, the state has never presented a claim. The remaining portion California has claimed on the following grounds: First, that the "civil fund" was established and the money paid into it for the primary purpose of defraying the expenses of the civil government in California. Second, that the money collected between August 7, 1848, and November 12, 1849, was illegally collected; that is, without the authority of the United States, but, since it was impossible to return this money to the importers in an equitable manner, it should be paid into the state treasury for the common benefit of all. Third, that the money collected between November 12, 1849, and September 9, 1850, was collected at a time when California had no representatives in Congress. Fourth, that the portion of the "civil fund" expended by the military department of the general government was regarded by Governor Riley as a loan to the treasury of the United States and should be returned to the state treasurer. Fifth, that inasmuch as California had never been the recipient of national aid, since the federal government had failed to organize it as a territorial government, the state was in justice and equity entitled to the revenues collected in California prior to September 9, 1850.

During the first session of the thirty-third Congress, Representative Latham of California introduced House Bill No. 90, appropriating $2,968,748.40 to pay the claims of California. The bill was referred to the Committee of Ways and Means which reported it back with the recommendation that it do not pass. In making its adverse report, the committee advanced three lines of argument to support its recommendations. First, California, during the time in which the customs duties in question were collected, was a part of the territory of the United States, and as such was subject to all the revenue laws in force. Second, Congress had no authority to pay the claims of California. If any money was illegally collected it did not belong to the state, but to the people from whom it was collected. Third, all the money in the "civil fund" was expended in California in paying

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the expenses of the civil government, of the constitutional convention and the military expenditures in the state.[21] The Latham bill never came to a vote in the House of Representatives. Moreover the Supreme Court of the United States, in the case of *Cross et. al.* v. *Harrison*,[22] a case which did not involve the California claims directly, intimated that if any case involving the payment of the claims of the state should come before it for adjudication, it would hold that the customs duties were legally collected and that the revenue therefrom belonged to the United States Government.

4. Genesis of the Constitutional Convention

There remains to be considered in this introductory chapter the financial clauses of the California constitution of 1849. But before reviewing these it seems necessary to say a few words on the genesis of the constitutional convention. Soon after Governor Mason had heard of the ratification of the treaty of peace with Mexico, he issued a proclamation in which he declared that all laws, save those contrary to the constitution of the United States, were to remain in force until changed by Congress. The discovery of gold in California in 1848 attracted the attention of the whole world and wrought an unexpected change in the industries and population of the newly annexed territory. The residents of California abandoned their farms, stores, and shops and hastened to the gold fields. Among the thousands of immigrants were many daring and adventurous men, anxious to replenish a lost fortune or lay the foundation of a life of ease. As the heterogeneous population increased, the necessity for a strong

[21] On this point the committee was misinformed or wilfully misrepresented the facts. The report of the civil treasurer, Robert Allen, showed that there was a cash surplus of $250,000 in the "civil fund" when he received orders to turn the balance in the fund over to the War Department of the United States government.

[22] Cross et. al., brought an action against Harrison, Collector of Customs at San Francisco, for the recovery of damages and duties paid on goods before the establishment of a customs district. The court held that the duties paid prior to the signing of the treaty of peace, closing the Mexican War, were established and required by military law and that the plaintiff had no legal claim to the money paid by him. The court furthermore held that the duties collected after the signing of the treaty of peace were legally collected and accrued to the United States. (16 Howard 164.)

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government became more and more apparent. The Mexican laws were not suited to the new conditions. Californians appealed to Congress to have it organize and establish a territorial government, but the federal lawmakers, because of their ignorance of the real conditions in California, pursued a policy of procrastination.

On December 11, 1848, there was held at San José a large meeting at which were adopted resolutions in favor of calling a convention to form a provisional territorial government which was to remain in force until Congress should replace it with a regular territorial organization. This action was endorsed by the people of San Francisco at two public meetings, held on December 21 and 22. Similar resolutions were adopted at meetings held at Sacramento on January 6 and 8, 1849, and at a meeting held at Monterey on January 31, and at Sonoma on February 5. The remaining five districts, San Joaquin, San Luis Obispo, Santa Barbara, Los Angeles and San Diego, took no cognizance of the actions of the northern districts. At the San José meeting it was decided that the convention should meet at that place on the second Monday in January, 1849. The convention did not meet on this date, because of the inclement weather and the impassable condition of the roads and streams, which prevented all communication with the southern districts. Early in March, a few delegates to the postponed San José convention met in San Francisco and recommended that new delegates, vested with full power to frame a state constitution to be submitted to the people for ratification, be elected to attend a convention which was to meet at Monterey on the first Monday in August. In June the San Francisco district assembly recommended that the constitutional convention meet at San José on the third Monday in August.[23] This matter was brought to a final issue when on June 3, 1849, Governor Riley, acting, so far as we have been able to ascertain, independently of the various district officers, issued his proclamation recommending the framing of a state constitution, or a plan for a territorial government. Pursuant to the governor's proclamation, an election of delegates was held on August 1, 1849. The convention met at Monterey on September

[23] *California Blue Book*, 1907, p. 526.

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1 and remained in session until October 13. Soon after the first meeting, the convention abandoned the idea of formulating a plan for a territorial government and proceeded to draft a state constitution. This the convention adopted on October 10. On November 13 the people ratified it. At the election 12,061 votes were cast in favor of the state constitution and 811 against it.

5. Financial Clauses of the Constitution of 1849.

The task set before us does not require a detailed examination of the whole of the constitution of 1849, but only of the articles and clauses which pertain to the subject of revenue and taxation. The constitutional limitations established by these articles and clauses were for the most part copied in a modified form from other state constitutions. This may, in part, be attributed to the fact that there were few native Californians in the constitutional convention. All but seven of the forty-eight delegates had recently come from the eastern, central and southern part of the United States. They knew more about the vicissitudes of those states than of the needs and local conditions of California. Thus, persuaded that the issuance of bank notes was one of the leading causes of the collapse of credit in 1837, and inspired by the thought that the gold supply of California would be perpetual, they readily approved the provision that "The legislature shall have no power to pass any act granting any charter for banking purposes, but associations may be formed, under general laws, for the deposit of gold and silver, but no such association shall make, issue, or put into circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money."[24]

On September 21, 1849, the convention took up for consideration the question of state indebtedness. The motive prompting the convention to limit the power of the legislature to incur a state debt in excess of a certain amount, is expressed by the supreme court of California in these words:

> The framers of our state constitution were mostly men fresh in the experience of the errors into which other states had fallen. They had

[24] Art. IV, Sec. 34 of the constitution of 1849.

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witnessed the unhappy results that followed extravagant legislation, and were anxious to rear a bulwark here, which would protect us against similar disasters. They were thoroughly acquainted with the history of the gigantic schemes of internal improvements entered into by the South and West; of the establishment of banks; of the expansion of their circulating medium; of the inflation of everything; of the general demoralization, which resulted from an uncontrolled power of legislation; and, in fact, of the weakness of human nature itself. They had witnessed ruin like an avalanche overwhelm them, destroying visionary hopes of wealth and greatness, and leaving them to sink beneath the crushing weight of debt and taxation, or driving them to the more dishonorable alternative of repudiation.[25]

The committee to which was referred the matter of state indebtedness recommended that:

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrection, unless the same shall be authorized by some law for some single object, or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each judicial district, if one is published therein, throughout the state, for three months next preceeding the election at which it was submitted to the people.

The recommendation of the committee was criticised by Mr. Sherwood from Sacramento, who wished to substitute $500,000 for $100,000. Mr. Sherwood's proposal was opposed by Mr. Gwin and rejected by the convention. Later Mr. Lippitt's amendment substituting $300,000 for $100,000 was adopted. This was the only change made in the report of the committee. How and to what extent this article of the constitution was violated during the first few years of the state's existence, will be discussed in the following chapter.

[25] *People* v. *Johnson*, 6 Cal. 499, 503.

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In order not to hamper and embarass the first legislature, the constitutional convention adopted Section 16 of the schedule, reading: "The limitation of the powers of the legislature, contained in article 8 of this constitution, shall not extend to the first legislature elected under the same, which is hereby authorized to negotiate for such amounts as may be necessary to pay the expenses of the state government."[26]

Thus far, the convention had not solved the vital and important problem, how the state was to obtain its revenue. The system of taxation had yet to be selected. On this point the discussion waged mainly over the question whether the legislature should have complete jurisdiction over all matters relating to taxation, or whether its power was to be limited by constitutional provisions. On September 10 Mr. Gwin submitted to the convention the following: "*Resolved,* That a committee of three be appointed by the president to report a plan to defray the expenses of the state government, to be adopted by this convention."[27] Subsequently Mr. Gwin's resolution was amended and the phrase "on the ways and means of defraying the expenses" substituted for the phrase "a plan to defray the expenses." The committee on ways and means as appointed by the president of the convention, consisted of Mr. William Gwin, Mr. Joseph Hobson and Mr. Abel Stearns.[28] On September 25 this committee reported:

> That the position of California is anomalous and different from that which any portion of the United States ever occupied. Like Louisiana and Florida, it is a purchase; but while they had the benefits of territorial governments, California has been left without any. A question of exciting interest and importance in the United States has so divided Congress that all attempts to establish a government for this country have failed, and the necessity is forced upon California of forming a state government in her present unprovided state. This is no fault of the people of California, nor should they be oppressed by it. The

[26] Schedule, Section 16, of the Constitution of 1849.

[27] Browne, *Report of the Debates,* etc., p. 43.

[28] Mr. William Gwin, engaged in farming, represented the District of San Francisco. He came from Louisiana, and had resided in California four months.

Mr. Joseph Hobson, engaged in the mercantile business, represented the District of San Francisco. He came from Maryland, and had resided in California five months.

Mr. Abel Stearns, engaged in mercantile business, represented the District of Los Angeles. He came from Massachusetts, and had resided in California for twenty years. See Browne, *Debates,* etc., pp. 478–479.

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United States, up to the present time, have always provided governments for their territories, and paid from the national treasury the expenses incident to the building up of a state in an unsettled country. Why should this be denied California? No portion of the territory of the United States ever more needed the paternal care of a territorial government. We are without public buildings, courthouses, jails, roads, bridges, or any works of internal improvement. The prices of building materials and labor of every class are excessively high; we are without a dollar belonging to the people, nor can we raise one but by levying taxes, which no population were ever in a worse condition to bear. In the lower portions of the territory, commencing partially in the District of San José, and extending to the Mexican boundary, the laborers have abandoned their ranches and gone to the mines. Hence the owners of property in this section of the territory are nearly ruined, by having to abandon their farms for want of laborers, and are losing their herds for want of persons to attend them.

Ranches that yielded an income equal to six per cent, or $100,000, three years ago, now produce nothing. The discovery of the gold mines has inflicted the deepest injury on this portion of the territory, where but two years ago were concentrated its wealth and population. The smallest amount of taxes that would justify the appointment of an assessor and collector would be oppressive to these people, already reduced to poverty, and their ranches going to ruin for want of laborers, and no one can state the time when a different result may be realized.

In the upper and more recently populated districts the vast majority of the people have no property to be taxed, except the gold they dig out of the earth, and which would be difficult, if not impracticable, to reach by taxation. In the towns that have sprung up, something might be collected; but like all new communities they make the most of their limited capital, and taxes would be severely felt by them. It is difficult to raise by taxation in these towns where is concentrated most of the active capital of the country, an amount sufficient to support a municipal government, the expenses are so great to get competent persons to hold the offices, administer justice, and collect the revenue. When laborers and mechanics can command for their services from ten to twenty dollars per day, competent persons to collect and disburse the revenue must be well paid. These, in a territorial government, would be dispensed with, which is one of the great advantages which would accrue to the people of California under such a form of government.

The committee have not access to the proper statistics to lay before you a general statement of the amount each of the states, who have had a territorial government, received in support of such form of government from the treasury of the United States. This is much to be regretted, as it would be an irresistible argument in favor of the plan the committee feel called upon to propose to the convention to provide ways and means to support the government we are about to form.

The committee have attached to their report a statement of the number of years that each of the said states, fourteen in number, had the

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benefit and protection of a territorial form of government, in some cases extending to more than thirty years.

Without having time to go further into the subject, the committee recommend that a memorial be prepared to be laid before Congress, with the constitution we may adopt, showing the necessity we are under of calling on that body to provide for the support of a state government, by the donation of a portion of the public domain, or by appropriating from the money collected in California from the customs and sale of the public lands such amount as will be necessary for that object.

This proposition, in the opinion of the committee, for reasons herein stated, is based upon a principle of right, and should be insisted upon as such.

In the opinion of the committee, any system of taxation at present might fail in the object of revenue, and they believe that, when the necessity or policy of adopting this measure may arise, the legislature will be the proper authority to provide for the case.

All of which is respectfully submitted.

W. M. GWIN.

The undersigned, a member of the committee, finds great difficulty in organizing the "ways and means" best adapted to the present peculiar and unprecedented circumstances in which the state is placed, but would recommend as the most eligible plan, that the legislature be empowered to raise the proper revenue for defraying the state expenses by levying an income land property tax, which shall not exceed one quarter per cent; as likewise a poll tax which shall be left to the legislature to decide upon, both in relation to the amount as well as the manner of carrying out the same.

A. STEARNS.[29]

The delegates from the southern districts of California did not endorse the recommendations of the committee permitting the legislature without any restrictions or limitations to inaugurate and establish a system of taxation. They feared the political power of the mining counties. As the discussion on the report proceeded, it became more and more evident that the southern delegates and the native population would not support the constitution unless there was inserted a clause guaranteeing to them protection from injudicious and unrestricted tax legislation. Yielding to the opposition of the southern delegates, the convention sitting as a committee of the whole adopted the following: "All lands liable to taxation in this state shall be taxed in proportion to their value; and this value shall be appraised by

[29] *Op. cit.*, pp. 201–202.

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officers elected by the qualified electors of the district, county, or town in which the lands to be taxed are situated." When the convention was called upon to concur in this provision, Mr. Gwin offered this substitute: "Taxation shall be equal and uniform throughout the state. All property in this state shall be taxed in proportion to its value; to be ascertained as directed by law." In defending his proposition Mr. Gwin said that he had taken it from the constitution of Texas and modified it to conform to local conditions. He was persuaded that, excepting the provision "that taxation shall be equal and uniform," everything pertaining to taxation should be settled by the legislature. Mr. Lippitt of San Francisco went even further than did Mr. Gwin in this respect. He agreed with the committee on ways and means that the legislature was the proper authority to devise a system of taxation. The large landowners objected to Mr. Gwin's substitute, on the ground that it would permit the assessment of their property by persons residing outside the district in which the property was located. Anxious not to antagonize this class of voters, Mr. J. M. Jones, representing the San Joaquin district, offered this amendment to Mr. Gwin's substitute: "But assessors and collectors of town, county, and state taxes, shall be elected by the qualified electors of the district, county, or town in which the property taxed for state, county, or town purposes is situated."[30] Several delegates were afraid that assessors elected by local districts would be dominated by politicians and large property owners. The majority of the members of the convention, however, considered the substitute of Mr. Gwin's and the amendment of Mr. Jones merely as a safeguard against future abuse and voted to incorporate them in the constitution in place of the proposal of the committee of the whole. The resulting section, which for thirty years was the basis of the property tax in California, read: "Taxation shall be equal and uniform throughout the state. All property in this state shall be taxed in proportion to its value, to be ascertained as directed by law; but assessors and collectors of town, county, and state taxes, shall be elected by the qualified electors of the district, county, or

[30] *Op. cit.*, p. 364.

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town, in which the property taxed for state, county, or town purposes is situated."[31]

In conclusion, it is interesting to note a few facts about the expenses of the constitutional convention of 1849, and the salaries of the officials. The expenses of the convention, amounting to over $100,000, were paid by Governor Riley out of the "civil fund." The salaries of the delegates and officers determined by the convention, were: president, $25.00 per diem; secretary, $28.00 per diem; assistant secretary, $28.00 per diem; engrossing clerk, $23.00 per diem; interpreter, $28.00 per diem; assistant interpreter, $21.00 per diem; chaplain, $16.00 per diem; sergeant-at-arms, $22.00 per diem; doorkeeper, $12.00 per diem; delegates other than officers, $16.00 per diem. The salaries of some of the proposed state officials, until changed in accordance with the provisions of the constitution, were fixed as follows: The salary of the governor at $10,000 per annum; of the lieutenant-governor at double that of a state senator, and members of the legislature at $16.00 per diem while in attendance and $16.00 for every twenty miles traveled by the usual route from their residence to the place of holding the session of the legislature, and in returning therefrom.[32]

[31] Art. XI, Sec. 13, of the Constitution of 1849; as found on p. 11 of the Appendix in Browne, *Report of the Debates*, etc.

[32] Section 15, of the Schedule of the Constitution of 1849.

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CHAPTER II

A DECADE OF EXPERIMENTATION

1. Monetary Conditions

Before reviewing the financial legislation enacted during the first session of the legislature of California, it seems necessary to speak briefly of the monetary situation in California prior to 1854, when the United States government established a branch mint at San Francisco. Previous to the creation of a customs district by the federal government, gold dust was accepted as security for the payment of customs duties. Frequently the gold dust thus received, worth from seventeen to eighteen dollars per ounce, was sold at public auction for six to eight dollars per ounce.[1]

The law establishing a customs district required all customs duties to be paid in gold or silver coin of the United States, or in foreign coin, the value of which was fixed by Congress. The scarcity of United States currency led to the importation of various depreciated coins. From the Spanish West Indies there was imported the *pistareen* or *peseta*,[2] worth 19 cents, but which readily circulated as a 25-cent piece. The Spanish *real*, worth 12½ cents, circulated as a 15-cent piece. The spanish *real*, worth from 43 to 44 cents, took the place of the half-dollar; a German silver coin worth 16 cents circulated as a 25-cent piece.

In 1850, Congress established a United States assay office at San Francisco, and authorized the collector of customs duties to receive gold, assayed at the office, in payment of customs duties. Immediately the price of gold dust rose from sixteen to seventeen and seventeen and one-half dollars per ounce. While this act afforded relief to some extent, it did not fully satisfy the need of United States coin for general purposes. On March

[1] *San Francisco Herald*, Nov. 1, 1851; Oct. 12, 1852.

[2] Wright, *Banking in California*, p. 8.

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25, 1851, the state legislature repealed the act of April 20, 1850, prohibiting private coinage. On April 21, the governor approved a bill intended to regulate private coinage.[3]

Soon afterwards, Augustus Humbert, in charge of the United States assay office at San Francisco, entered into a contract with Moffat and Company, whereby the latter was given the right to issue octagonal slugs worth fifty dollars each.[4] In 1852 Wass, Moffat and Company began to coin five-dollar gold pieces.[5] At first the local bankers encouraged the issuance of these new coins. They gladly accepted them as deposits. It was not long, however, until the state authorities found it impossible to regulate private coinage in all its details. Furthermore, the action of California to promote private coinage did not meet the approval of the federal government. In 1852 Congress passed an act which prohibited the receiving of gold slugs or dust in payment for customs duties. To this act the merchants of San Francisco objected. In a memorial sent to the secretary of the United States treasury and to Congress, they stated that within two days coin advanced from one-half to ten per cent, and all dutiable goods proportionally. Flour quoted on October 5 at twenty-seven dollars per

[3] Sec. 1. Any person or company who shall make or cause to be made, within this state, any piece of gold or silver, whether pure or alloyed, in the form of coin or otherwise, and intended or calculated to circulate as money, shall be held responsible to the holder thereof, for the marked value thereof, or the rate at which such coin is uttered, and shall on presentation redeem all such coins at such rate with legalized coin of the United States.

Sec. 2. If any person making or uttering such coins shall refuse or neglect to redeem the same, in the manner prescribed in section one, he shall be deemed guilty of a misdemeanor, and shall be liable, on conviction, to be punished in each case by a fine of not less than five hundred dollars, nor more than five thousand dollars, or imprisonment for not less than six months, nor more than three years, or both such fine and imprisonment.

Sec. 3. If any person shall hereafter make or utter any piece of gold or silver as described in section one, without stamping upon the same, the day, month, and year, of its manufacture, he shall be deemed guilty of a misdemeanor, and shall be liable, on conviction thereof, to the same penalty as is prescribed in section two.

Sec. 4. If any person shall hereafter make or utter any coin, or piece of gold or silver, such as is described in section one of this chapter, of less value than its marked or nominal value, or the value at which it is issued, he shall be deemed guilty of fraud, and on conviction thereof, shall be liable to the penalties mentioned in section second.

Sec. 5. This act shall take effect on the fifth day after its passage. (See *Statutes of California*, 1851, p. 171).

[4] Hittell, *Commerce and Industries of the Pacific Coast*, p. 125.

[5] *San Francisco Herald*, June 8, 1852.

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barrel sold on October 9 at twenty-nine dollars per barrel. The attention of the federal officers was also called to the fact that the average monthly receipts from customs duties at San Francisco were $200,000, while seven of the largest banks in the city with deposits aggregating more than $1,500,000 had but $100,000 in United States coin. The secretary of the treasury, after investigating the local conditions, refused to enforce the act of 1852. In 1854 Congress established a branch of the United States mint at San Francisco. With an increase in United States coin, the need of private and foreign coins became less, and gradually they disappeared.

2. The First State Legislature

The first state legislature met at San José on December 5, 1849. One of the most difficult problems it had to solve was to provide means for paying the state expenses. The solution could not be postponed. The state treasury was empty. The officers of the United States war department refused to surrender the money in the "civil fund" to the state of California, unless ordered to do so by Congress. Though there was need for immediate action some of the legislators argued against the introduction of direct taxation, on the ground that the native population, having had no experience with this method of taxation, would resent it. This group of lawmakers maintained that since California had never been a source of expense to the federal government—California never had a territorial form of government—Congress should provide for the financial needs of the newly organized state government until a satisfactory and efficient revenue system might be devised and introduced. Experience, however, proved this plan to be impracticable. There was no reason to believe that Congress, which had neglected to establish a territorial government for California, could be persuaded to appropriate funds to pay the state expenses.

3. The Temporary State Loan of 1850

To meet the immediate fiscal wants of the state government the legislature on February 1, 1850, passed what is known as the

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Temporary State Loan Act.[6] This act authorized and directed the state treasurer to issue and sell bonds to an amount not exceeding three hundred thousand dollars. The bonds, issued in denominations of $100, $225, $500, and $1000, were made payable within six months from date of issue, with interest at the rate of 3 per cent per month.[7] They were receivable for all taxes and state dues. If at any time there was no coin in the state treasury to pay any creditor of the state, the state treasurer was to offer him bonds authorized by this act, provided that none be issued for less than par value. The act made no special provision for a sinking fund. It merely stated that the bonds were to be redeemed out of any money in the state treasury not otherwise appropriated. From what source the state was to receive sufficient revenue to repay the loan of $290,000, the amount of bonds issued, at the end of six months did not seem to trouble the legislators very much at the time the act was passed. It would have been better for the state had they given this subject some consideration, for at the end of the six-month period it happened that the state was in as poor a financial condition as when the loan was authorized. The borrowed money had been expended for the most part in paying the salaries of state officers while the receipts from taxation were insignificant. At the close of the fiscal year ending June 30, 1850, only $2,950 of the principal had been redeemed. During the first few years of the history of the state of California, the payment of this loan was uppermost in the minds of the controllers of the state. Up to June 30, 1855, the state had redeemed $287,175 of the principal and paid $178,703.05 in interest. The following table, found in the report of the state controller[8] for the fiscal year closing June 30, 1855, shows the amount of the principal redeemed, the interest paid, etc.

[6] *Statutes of California*, 1850, pp. 53–54.

[7] The two principal reasons for this high rate of interest were, first, the normal rate of interest in California was exceedingly high. It was a common occurrence for private loans to be made at ten per cent per month. Secondly, the legality of the loan was questioned, because Congress had never passed an enabling act authorizing the people of California to draw up a constitution and apply for admission into the Union. At the time the Temporary State Loan Act was passed California had not yet been admitted to the Union.

[8] Controller's Report, 1854–55, p. 25.

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Fiscal year ending June 30	Amount of principal redeemed	Interest paid on the amount redeemed	Total interest and principal paid	Principal outstanding	Interest due	Principal and interest
1850	$2,950	$206.27	$3,156.27	$287.150	.....	.....
1851	122,150	34,419.18	156,569.18	165,000	.....	.....
1852	47,675	27,369.16	75,044.16	177,325	.....	.....
1853	79,125	74,040.92	153,165.92	38,200	.....	.....
1854	34,225	40,781.72	75,007.32	3,975	.....	.....
1855	1,050	1,885.80	2,935.80	2,925	3,963.95	6,888.95
Totals..	$287,175	$178,703.05	$465,878.65		$3,963.95	$6,888.95

4. The General Property Tax Law of 1850

To meet the current and future expenses of the state government, the first legislature enacted a comprehensive revenue law, comprising a general property tax, a poll tax, a military commutation tax, a foreign miners' license tax, and a few minor license taxes. Let us now proceed to examine these measures in the order named, save the minor license taxes, which will be treated with the license taxes levied during subsequent years.

First, as to the general property tax law of March 30, 1850. The Assembly appointed a ways and means committee, but we have been unable to find its report. The report of the Senate finance committee, found in the appendix of the *Senate Journal*,[9] gives us an idea of the optimistic spirit of some Californians. This report reads in part:

> Your committee believe that from an intimate knowledge of the resources of the state, a tariff of taxes may be imposed, which, by July next, will produce to the treasury from six to seven hundred thousand dollars, which may be both equal and uniform in its operations, as required by the 15th section of the 9th article of the constitution, while it may be anything but onerous in its amount. The tax bill which your committee have partially agreed upon with the Committee of Ways and Means of the Assembly, presents a list of taxables large in amount and easy of collection. The ad valorem principle imposed by the constitution, will develop resources such as no new state ever witnessed, and the means of payment will be more easy, because no other new state ever commenced her political existence with a production so great. The monstrous truth is already familiar to the world that California, not yet admitted into the Union as a state, has a production greater than the oldest and richest state of the union.
>
> This production, unlike the wealth of other states, is not dependent upon the seasons or the harvests, nor dependent upon the blight of the cotton plant, the success of the spinning-jenny or the fluctuations of

[9] *Journals of the California Legislature*, 1850, pp. 424–426.

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trade. Her income is alike common to every day of the year; and whether you take the Troy weight of gold extracted per day from the earth, or the per diem value of labor as a standard of production, she is already far ahead of her sister states, with a ratio of increase too great, in the opinion of your committee, for them to venture an opinion upon. The certainty, as at present known to the thousands who have investigated this subject, that the abundance of the precious metals in California will last for ages to come, puts to rest all former doubts of the continuance of this source of production.

Your committee does not deem it a portion of their duty to remark upon the beneficial tendency which such a constant and uniform production may have in lessening the necessity of the credit system, further than to say that this income alike common to every month and day in the year, will afford to the taxpayer, at *any* season of the year, and at short notice, the means of meeting the necessities of the state. Hence they propose that the assessment and collection of taxes be made by July next. In other states of the union the assessment generally precedes at long intervals the collection of the taxes, because the income of the taxpayer is generally dependent upon the grain, cotton, or tobacco crop, or some other income of which he is the recipient once a year.

Your committee, from a thorough knowledge of the people of the mining and other portions of the state, will venture a remark upon a doubt which they have occasionally heard expressed, as to the cheerfulness of our citizens in paying their taxes. Upon this subject your committee have the fullest confidence that there never existed a community who will more cheerfully and promptly meet their taxes. They will not only do so from their moral sense of the necessity of the case, but because their ability so to do will be greater. The extensive landowner can do so, because of the large demand and high prices now offered for small tracts—the herdsman, with his thousand flocks, can do so, because of the great demand and high prices for his horses and mules, beef and mutton—the landlord for the reason of his high rents, and the merchant on acount of his high profits, can do so, while the miner and the laborer, with his large per diem income, will have even greater ability to meet this demand.

Your committee believe that if one interest will more readily than another meet this demand, it will be the mining interest, not only because of their constant cash ability so to do, but on account of the great want which they experience for a state government to secure and protect them in their large gains.

For the difference in tone between this report and that of the ways and means committee of the constitutional convention, quoted in Chapter I, we can find no real basis, except the personality of the members constituting the committees. Only a few months intervened between the rendering of the two reports. During the interim no material change took place in the agricultural and industrial industries which would warrant such differ-

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ent conclusions. The narrative which follows reveals the incorrectness of both and demonstrates the futility of attempting to forecast events in a new and undeveloped country.

The general property tax law of March 30, 1850, provided that "all property, real and personal, within this state, shall be liable to taxation, subject to the exceptions hereinafter stated."[10] Real estate was defined so as to include "all lands within this state, and all buildings or other things erected on or affixed to the same." Personal property included "all household furniture, goods, chattels, and moneys; all ships, steamboats, vessels, and water craft of any and every description whatever, whether at home or abroad; all moneys at interest owing to the persons to be taxed more than they pay interest for, and other debts owing to them from solvent persons more than they are indebted for, and all public stock in turnpikes, bridges, insurance companies, and monied corporations, whether within or without the state; also such portion of the capital of incorporated companies liable to taxation on their capital, as shall not be vested in real estate."

The constitutional requirement that "taxation shall be equal and uniform" did not prevent the legislature from exempting considerable property from taxation. The act of March 30, 1850, exempted from taxation the property of any person exonerated from taxation by state law; the real and personal property of the United States[11] and of the state; the lands sold by the United States until five years from the date of sale; every schoolhouse,

[10] *Statutes of California*, 1850, p. 135.

[11] This law was enacted before California was admitted into the Union as a state. Section three of the admission act (*U. S. Statutes*, 31st Cong., 1st Sess., chap. 50, p. 452), September 9, 1850, reads: "And be it further enacted, That the said State of California is admitted into the Union upon the express condition that the people of the said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired and questioned; and that they shall never lay any tax and assessment of any description whatsoever upon the public domain of the United States, and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor: Provided, that nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State."

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courthouse and jail and the land, not exceeding ten acres, on which such buildings were located; every church and appurtenance used for religious purposes; every cemetery, if not exceeding fifty acres; every building erected for the use of a library, benevolent, charitable, or scientific institution, together with the land on which it was located if not exceeding twenty acres; all personal property of the aforementioned institutions; all lands granted for common schools, so long as they remained unsold; the personal property and real estate, not exceeding three hundred and twenty acres, of every manual labor school or college incorporated within the state; and the personal property of every widow or orphan to the extent of one thousand dollars.

The county assessors were to ascertain the value of all the taxable property within their respective counties between the first Monday in March and the first Monday in August of each year. The statute defined the duties of the assessors, and instructed him how to assess the property. "Land sold by the state, though not granted or conveyed," was to be assessed "in the same manner as if actually conveyed."[12] The individual stockholder of a corporation whose capital was liable to taxation was not to be taxed on his share of the stock as an individual. Personal property was to be listed where the owner resided. Land was to be listed in the county where it was located. In assessing land, the assessment was to be made in the name of the owner, if known; if not, it was to be assessed to the occupier, who was obliged to pay the tax. If the latter paid the tax he had an action against the owner. Unoccupied land was to be assessed to the owner, if known; if not, it was assessed as "lands of persons unknown." The personal property of firms, associations and corporations was to be assessed in the county where the principal office of the firm, association or corporation was located. Companies operating toll-bridges or ferries were to be assessed in the county where the tolls and the fares were collected. If the tolls and fares were collected in more than one county, the property was to be listed in the county where the treasurer's office was located. Personal property on which there was a mortgage was deemed, for purposes of taxation, to be the property

[12] *Statutes of California*, 1850, Sec. 6, p. 136.

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of the person having possession. Mortgaged real estate was considered to be the property of the mortgagor, until the mortgagee should take possession of it.

All property, real and personal, was to be assessed at its true money value. To assist the assessor to ascertain the true value of the property, the law empowered him to demand, between the first Monday in March and the first Monday in August, from each resident of the county, a statement showing the kind of property he owned and its value. If the assessor was unable to find the owner of the property, or if he refused to file a statement as required by law, the assessor had to determine arbitrarily the value of the person's property.

In determining the value of land and improvements, due consideration was to be given to the "fertility and quality of the soil, the vicinity of the same to roads, cities, towns, villages, to navigable rivers and water privileges on the same, together with any other local advantages of situation connected therewith upon actual view of the premises."[13] In fixing the value of city lots and improvements thereon, the assessor was to take "into consideration the local advantages of situation upon actual view of the premises."

From the data collected the assessor was to prepare an assessment roll showing:[14]

1. The names of all the taxable inhabitants.
2. A concise description of all the real estate taxable to each, except city or town lots.
3. The value of the same without improvements.
4. The value of improvements.
5. A description of city or town lots taxable to each.
6. The value thereof without improvements.
7. The value of the improvements.
8. The value of personal estate taxable to each.

The valuation of the property as returned by the assessor was not necessarily final. His figures were subject to review by the court of sessions which, when sitting as the county board of

[13] *Statutes of California*, 1850, p. 137.
[14] *Ibid.*, p. 137.

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equalization could add to or subtract from the valuation made by the assessor.[15]

Both the state and county taxes levied on real and personal property were to be collected by the county treasurers of each county. For this service the county treasurer was allowed 10 per cent on the first one thousand dollars collected, 8 per cent on all sums between one thousand and two thousand dollars, 6 per cent on all sums between two thousand and five thousand dollars, and 3 per cent on all sums above five thousand dollars. In addition, each county treasurer was allowed 25 cents per mile for going to and returning from the state capital, in order to pay the state's portion of the property tax into the state treasury.

The lien of the state was made paramount to all others. It attached, on real estate, from the first Monday in March; and on personal property, owned by persons having no real estate, from the first Monday in August, annually. The county treasurer was required to sell any real estate on which the taxes were not paid on or before the first Monday in November of each year. If taxes became delinquent, he had to add 20 per cent to the face value, plus 10 per cent interest per annum, until paid.

5. The Poll-Tax Law of 1850

The idea of levying a capitation or poll tax met with the approval of both the constitutional convention and the first legislature. Members of the latter were convinced that there was in California a large floating population, with no real estate and very little personal property liable to taxation. Nevertheless this population was enjoying all the benefits and protection of the state government. The only way to make these people contribute toward the support of the government, was to levy a general poll tax. The Senate finance committee, from whose report we have quoted before, thought that everybody would willingly pay this tax if it were equal to but one-half the ordinary

[15] The court of sessions was composed of the county judge and two justices of the peace. It was to care for all county property; to settle all claims against the county; to levy the county tax, which should never be equal to more than one half of the state tax; to control and manage all public roads, ferries, turnpikes, etc., in the county. The court of sessions was later superseded by the board of supervisors.

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day's wages. The average per diem wage at this time was ten dollars; consequently the committee recommended the levying of a five-dollar tax. The legislature approved the committee's recommendation. The tax was to be collected from all male inhabitants, between the ages of twenty-one and fifty, except wild and unchristianized Indians—unless entitled to vote—and all persons exempt by the laws of the state. Should any person liable to pay the tax refuse to do so, he was not permitted to prosecute any suit in the courts of the state of California for the recovery of a debt, or for the redress of a personal wrong.[16]

6. The Military Commutation Tax

Another fiscal measure of the first legislature was the two-dollar military commutation tax.[17] This tax was to be collected from all able-bodied male citizens of California, between the age of eighteen and forty-five, except those exempt by law, or members of a volunteer militia company. Ten per cent of the money collected was to be paid to the county treasury for the benefit for the county, 10 per cent to the assessor for preparing the military roll, and 80 per cent into the state military fund, to pay the expenses of the state militia.

7. The Foreign Miners' License Tax

The foreign miners' license act[18] of April 13, 1850, prohibited every person, not a native or native-born citizen of the United States or who might not have become a citizen under the treaty of Guadalupe Hidalgo (all native California Indians excepted) from mining in any part of the state without first obtaining a foreign miner's license, the cost of which was twenty dollars per month. The act was passed with the alleged purpose of securing better regulations and government in the mining counties. It was to remain in force until the governor of the state should issue a proclamation, announcing the passage of a law by Congress, whereby the United States government assumed the duty

[16] *Statutes of California*, 1850, p. 144.
[17] *Ibid.*, p. 193.
[18] *Ibid.*, p. 221.

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of regulating the mining of the precious metals in California. The governor was to appoint not more than one collector of the foreign miners' license tax for each mining county and one for the county of San Francisco. The license obtained from the collector permitted the foreigner, subject to the same conditions as a citizen of the United States, to mine in any part of the state.

Needless to say, the act aroused a tremendous opposition among the foreign population, many of whom had been in California since 1848. The Spanish-Mexican people resented the act especially. They interpreted it as an attempt to expel them from the mines. Soon after the law went into effect, its legality was questioned, but the supreme court of California held that the act was valid; that the charge was not a tax, but a fee.[19] Evasions were attempted everywhere. Throughout the mining regions mass meetings were held and the act and those called upon to enforce it were severely denounced.[20] Responding to the demands

[19] The *People ex Rel., The Attorney-General* v. *Naglee*, 1 Cal. 232, 253, 1850. The defendant in this case claimed that the charge imposed upon him by the Foreign Miners' License Tax Act was a tax and therefore the act violated those provisions of the constitution which required taxation to be equal and uniform, and which required the collector of taxes to be elected by the people of the city or town, or county in which the tax was to be collected.

The Supreme Court held that the charge was not a tax, but a fee paid for the permission to enjoy the protection of the state government in the mining regions, and in the pursuit of a lucrative business. "The word tax," said the court, "in its common acceptation, denotes some compulsory exaction, which a government makes upon persons or property within its jurisdiction, for the supply of public necessities. It is ordinarily assessed beforehand at stated periods, and collected at appointed times. Its payment is enforced, sometimes, by imprisonment of the person; at others, by the sale of the property. The law in question, however, partakes of none of these qualities. It does not require the exaction, at all events, of anything. The foreigner may pay, or need not pay, the specified amount, depending upon his own option whether he will, or will not, engage in mining operations. The amount is not assessed at all; it is not required to be paid at a definite time; and its non-payment is enforced neither by imprisonment nor sale of property. It is demanded only so often as a party, of his own accord, chooses to perform certain acts. It is in the nature of a fee of a specific sum, exacted for licenses to sell certain goods or liquors, or to exercise certain trades, or to exhibit some curiosity, or for admission to certain privileges, or as a toll for the enjoyment of certain facilities, none of which is regarded in the light of a tax in the common acceptation of the term. It is a license fee, and not a tax; and unless the statute be constitutional, we see not how any license law can be constitutional."

[20] For an excellent account of the practical effects of the foreign miners' license tax see Royce, *California*, pp. 356–368.

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of the foreign element, the legislature on March 14, 1851, repealed the law. During the time the law was in force the state collected $33,147.47.

8. Summary

As a result of all this fiscal legislation, the state's revenue, exclusive of the money borrowed during the first fiscal year closing June 30, 1850, amounted to $3,156.27, the amount received from the foreign miners' license tax. The total receipts, including the money borrowed, were $293,156.27. The total expenditures were $348,165.26, of which $218,824.94 was incurred by the legislature and $74,073.25 by the state printer, for printing bills, statutes and various reports. The total deficit amounted to $55,008.99.

During the subsequent years of this decade, not a session of the legislature passed without some important changes being made in the general property tax, or the poll tax, or the license-tax laws. These changes were introduced for various reasons; sometimes to secure a more equitable distribution of taxation, sometimes to increase the states receipts and sometimes to regulate certain industries and enterprises. In discussing the changes we have considered the date of secondary importance. It was our intention to give a complete and concise survey of the modifications of the revenue laws of California, rather than an ordinary chronological presentation of them. Thus, for example, the property tax will be considered throughout the monograph under these headings: the base of taxation; the exemptions; the assessment of property; the equalization of assessments; the rate of state taxation; the collection of taxes, and the enforcement of the collection.

9. The General Property Tax; 1851–1860

a. The Base

The base of the property tax was not altered in 1851, although Governor Burnett called the attention of the legislature to the unequal and oppressive revenue system.[21]

[21] Governor Burnett, in his annual message of 1851, called the attention of the legislature to these facts: six grazing counties, with a population of 6,367, paid $41,705.26 in taxes, while twelve mining coun-

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In 1852 the legislature sought to give some relief to the agriculture sections of the state. The revenue law of 1850 was repealed. Section 1 of the act of April 23, 1852, read: "All property, real or personal, within this state, shall be liable to taxation (subject to the exceptions hereinafter stated), in proportion to its value, which value shall be ascertained by the oath of the owners, agents, or possessors thereof, and by the county assessors; and all individuals, and individual pursuits, except agriculture and labor, may be liable to additional taxation; but the same shall be equal and uniform throughout the state."[22] Real estate was defined so as to include all lands in the state. The definition of personal property was extended and included in addition to those things mentioned by the Act of 1850 (see page 131), gold dust, money at interest, and for purposes of revenue only, all houses, buildings and other things affixed to real estate, regardless of whether such real estate was private property or public lands of the United States. An act of May 18, 1853, introduced no material changes. The law of May 15, 1854, exempted growing crops and mining claims from taxation. An act of April 29, 1857, repealed all previous revenue laws, and made all property, unless it was exempt by law, liable to taxation. This act defined real estate[23] to mean "the ownership of, or claim to, or possession of, or right of possession to any land within the state." The phrasing of the definition of real estate so as to include "possessory claims" may be attributed, in part at least, to the act of March 26, 1856, intended to protect actual settlers and quiet land-titles. This act declared that all lands in the state shall be regarded as public lands until legal title is shown to have passed from the government to private parties. This provision was extended so as to include all lands which were the subject of litigation, or which were "claimed under or by virtue

ties, with a population of 119,917, paid only $21,253.66. The poll tax assessed in the mining counties amounted to $51,495, of which $47,915 was delinquent. In the grazing counties the amount of poll tax assessed was $7,205, the amount delinquent, $3,291. During the past year, the agricultural counties, with a population of 79,778, paid $246,247.71 in state taxes, while the mining counties, with a population of 119,917, paid only $21,253.66.

[22] *Statutes of California*, 1852, p. 18.

[23] *Ibid.*, 1857, p. 328.

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of any Spanish or Mexican grant, or any grant made by the governors of California, unless the said grants shall have been surveyed, and the boundaries plainly and distinctly marked."[24] As a result of this statute nearly all the lands in California were exempt from taxation. To remedy this state of affairs, the legislature decided to tax the possessory interest which a person may have acquired in the lands which he possessed or claimed .

"Personal property"[25] was defined by the act of April 29, 1857, to include

all household and kitchen furniture; all law, medical and miscellaneous libraries, all goods, wares and merchandise, all chattels of every kind and description, all money on hand or on deposit in bank or banks or with individuals, all money at interest, secured by mortgage or otherwise, gold dust, solvent debts, stocks of goods on hand, horses, mules, oxen, cows, calves, beef-cattle, hogs, sheep, goats, jacks and jennets, and cattle of every description, wagons, carriages, buggies, omnibuses, stages, stage-coaches, sulkies, carts, drays, and all other vehicles whether for use, pleasure or hire, all machines and machinery, all works and improvements, all storeships and hulks, all steamers, vessels and watercraft of every kind and name, either owned in whole or in part by a resident or residents of the state or navigating the waters of any river or bay within the state and having a general depot or terminus within the state, all capital loaned, invested or employed in any trade, commerce or business whatsoever, the capital stock of all corporations, companies, associations, firms or individuals doing business or having an office in the state, the money, property and effects of every kind, except real estate, of all banks, banking institutions or firms, bankers, money-lenders and brokers, all houses, buildings, fences, ditches, structures, erections or other improvements, built or erected upon any land, whether such land be private property, or the property of the state, or of the United States, or of any municipal corporation or county in the state, and all other property of whatsoever kind or nature, not included in the term "real estate" as said term is defined in this act.

b. Exemptions

An act of April 23, 1852, exempted from taxation all lands, buildings and other property, belonging to the United States,[26] the state or any county thereof; all public structures, together with their furniture and equipment, and all public squares and lots, used for recretation or ornamental purposes, belonging to any

[24] *Statutes of California,* 1856, p. 56.
[25] *Ibid.,* 1857, p. 328.
[26] *Ibid.,* 1852, p. 19.

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city, town or village of the state; all property granted and held for educational purposes; all schoolhouses and other buildings together with their furniture, equipment, and lands appurtenant, used for educational purposes; all hospitals together with their furniture and equipment; all churches and other public buildings used for religious worship, and all cemeteries and graveyards. For the most part this portion of the law was but a re-enactment of the corresponding provisions of the law of 1850. It differed from the law of 1850, however, in that it did not limit the number of acres of land which educational and benevolent institutions might own without becoming liable for taxes thereon and in that it did not exempt any personal property of widows and orphans.

By an act of May 18, 1853, the exemptions were extended and more specifically enumerated. This act[27] exempted from taxation the following property:

First. All lands and lots of ground, with their buildings, improvements, and structures thereon, belonging to the state, or to any county of this state; all unoccupied lands, buildings and other improvements, occupied and owned, belonging to the United States, and all lands used by the United States government, for the coining of money or for military, naval, or other purposes.

Second. Town halls, council chambers, market houses, and all other public structures and edifices, and all public squares and lots kept open for health, use or ornament, belonging to any city, town, or village, of this state.

Third. Colleges, schoolhouses, and other buildings for the purposes of education, with their furniture, library, and all other equipments, and the lots thereto appurtenant and used therewith so long as the same shall be used for that purpose.

Fourth. Public hospitals, asylums, poorhouses and other charitable or benevolent institutions for the relief of the indigent and afflicted, and the lots thereto appurtenant, with all their furniture and equipments, so long as the same shall be used for that purpose only, and without a view to pecuniary gain.

Fifth. Churches, chapels, and other public buildings for religious worship, with their furniture and equipments, and the lots of ground appurtenant thereto and used therewith, so long as the same shall be used for that purpose only.

Sixth. Cemeteries and graveyards, set apart and used for the purpose of interring the dead; and the property of widows and minor orphans, to the amount of one thousand dollars.

[27] *Statutes of California*, 1853, pp. 234–5.

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Seventh. The owner or holder of stock in any company liable to taxation on its capital, shall not be taxed as an individual, for such stock, nor shall any individual or company, be required to pay a tax upon the capital invested and the improvements made by the use of such capital.

An act of May 15, 1854, exempted all of the property just enumerated and in addition, growing crops[28] and mining claims. In 1857, the pendulum began to swing in the opposite direction. The revenue law of April 29, 1857, exempted from taxation colleges, school buildings, hospitals, churches, charitable and benevolent institutions, enumerated above, only if no rent or profit was derived from them. Apart from these restrictions no changes were introduced by this act.[29]

c. *Assessment of Property*

The act of May 1, 1851, re-enacted the provisions of the act of March 30, 1850, relative to the assessment of lands sold by the state, of occupied and unoccupied lands, and the listing of real and personal property. In addition, it introduced four changes:[30] First, it required the assessor to ascertain the names of all the taxable inhabitants of his county, and the value of their taxable property, between the first Monday in March and the first Monday in July. For the year 1852, the assessment did not have to be completed until the first Monday in August. The assessment roll prepared by the assessor had to include the names of the taxable inhabitants, a concise description of the taxable real estate, including city and town lots, the actual cash value of the real estate together with the improvements on it, and the actual cash value of the personal property. Second, the assessor had to demand from each inhabitant a statement, given under oath, setting forth the property he owned and its value. Third, real estate and personal property under mortgage was, for the purpose of taxation, to be regarded as the property of the party having possession. Fourth, the assessor had to give ten days' notice to each settlement where there were twenty or more inhabitants, of the time

[28] *Statutes of California*, 1854, p. 105.
[29] *Ibid.*, 1857, p. 326.
[30] *Ibid.*, 1851, pp. 155–157.

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and the place where he would meet the taxpayers to examine the lists of property returned by them and to assess it. Any person who refused or neglected to attend this meeting, or failed to file a list of his property under oath, had to pay the assessor one dollar to defray his expenses for going to the house of such a person to make the assessment. Moreover, the owner of the property became liable for twice the amount of the taxes due. The valuation, as determined by the assessor, was final, unless changed by the county board of equalization.

This method of assessing property was abandoned by an act of May 3, 1852, which required the assessor to call on every resident at his home, and demand from him a sworn list of the property he owned, or had under his management. The refusal to furnish this sworn statement was made a misdemeanor. If by fraudulent means property to the amount of one hundred dollars or over escaped taxation, the owner of it became liable to a fine of not less than fifty dollars nor more than two thousand. One-fourth of the fine collected was paid to the person informing the sheriff of the fraud and aiding in the conviction of the party. Personal property under a mortgage was, by the act of April 23, 1852,[31] considered as the property of the party having possession. In the case of mortgaged real estate, the mortgagor, when in possession, had to pay the tax on the value of the property over and above the face of the mortgage; the mortgagee on the face value of the mortgage. This statute did not change the form or subject-matter of the assessment roll, except that the statement showing the amount of real estate taxable to each person had to include the number of acres in each tract of land owned by the taxpayer, and describe city and town lots by referring to their number and the adjoining street or streets.

An act of May 18, 1853,[32] required the assessment to be made between the first Monday in March and the first Monday in August, instead of July. The method of taxing mortgages was changed once more under this law, so that the person having possession had to pay the taxes on mortgaged personal property; the mortgagor, on mortgaged real estate. With the expectation

[31] *Statutes of California*, 1852, p. 20.

[32] *Ibid.*, 1853, pp. 253–256.

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of increasing the total valuation of property for purposes of taxation, the assessor was definitely commanded to fix the value of all property. Heretofore, he could accept the valuation of property as returned by the owner. Now he had to determine the valuation himself. To aid him in his work, he was given the right to inspect and examine the accounts of all officers of firms and corporations who had to report to him the properties owned or managed by them for the said firms or corporations. As under the previous statute, he had to demand from each taxpayer a sworn statement setting forth the property owned or managed by him. Any property not included in this statement might be assessed at any time during the year, and was liable to double taxation unless it appeared to the satisfaction of the county board of equalization that its omission from the assessment roll was the fault of the assessor.

These provisions were reincorporated in the act of May 15, 1854, with the exception that this law gave the assessor discretionary power to demand (or not) a list of property from each inhabitant of his county. By the law of April 29, 1857, the assessor was deprived of this discretionary power, and put under legal obligation to require each person, firm, or corporation to file a statement, showing all the property owned or claimed. Upon refusal to do this, the assessor had to fix the value of the property, which was final in the case of personal property, unless the person, firm, or corporation, filed a statement before the first Monday in August, or within three days after the demand for the taxes due, if such demand was made before the first Monday in August. The estimated value of the real estate was final, unless changed by the county board of equalization. Any property not on the regular list could be assessed at any time prior to the last Saturday in October. If property escaped assessment, because of the negligence of the assessor, he became liable for all the taxes due on the property. If, however, property escaped assessment because the owner thereof failed to file the required list, the owner became liable for double the amount of taxes due on his property.

We have been unable to find any figures showing the cost of assessing property for purposes of taxation. Only two of the

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general revenue laws fixed the maximum, or minimum, per diem compensation of the assessors. Section 54 of the act[33] of May 18, 1853, allowed the assessor, and each of his deputies, not less than twelve dollars per diem in the following counties: Tulare, Mariposa, Tuolumne, Calaveras, El Dorado, Placer, Nevada, Yuba, Butte, Sierra, Shasta, Siskiyou, Trinity and Klamath. In all of the other counties the compensation was to be not less than eight nor more than sixteen dollars per diem. The exact amount paid the assessor or his deputies was determined by the court of sessions of each county. Section 3 of the act[34] of May 15, 1854, allowed the assessor and each of his deputies not more than sixteen dollars per diem in the following counties: Tulare, Mariposa, Tuolumne, Calaveras, El Dorado, Sacramento, Nevada, Yuba, Butte, Plumas, Sierra, Shasta and San Francisco. In all the remaining counties they were allowed not less than eight nor more than twelve dollars per diem. By an amendment of April 17, 1855, the assessor and each of his deputies were allowed not more than ten dollars per diem while actually engaged in assessing property.[35] From these statements, one is not to infer that the assessors gave their service gratis during the other years of the decade. They merely indicate that the compensation was fixed by special statute, or by the court of sessions, or by the county board of supervisors.

d. Equalization of Assessment

The revenue laws enacted from 1850 to 1870 provided only for county equalization. An act of May 1, 1851, recognized the court of sessions, or the board of supervisors where established according to law, as the county board of equalization. For some reason which is not apparent, the court of sessions,[36] when sitting as a board of equalization, could act only upon complaint or upon an order of the county attorney, while the board of supervisors could act upon their own initiative. A law of 1852 removed this restriction and limitation from the court of sessions and gave it

[33] *Statutes of California,* 1853, p. 265.
[34] *Ibid.,* 1854, p. 136.
[35] *Ibid.,* 1855, p. 121.
[36] *Ibid.,* 1851, p. 157.

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the same power as the board of supervisors. The county board of equalization, no matter whether it was composed of the members of the court of sessions or the board of supervisors, could make any changes necessary to secure an equitable and just equalization of the valuation of the property of the county, as returned by the assessor. The laws of 1853 and 1854 introduced no change, except that the former required the board to meet on the third Monday in August, and continue in session until its work was completed. An act of April 29, 1857, required that in all counties of the state the assessment of property had to be equalized by the county board of supervisors. This body as a board of equalization was required to meet on the second Monday in August and to complete its work on or before the second Monday in September. The powers and jurisdiction of the board were not changed.

We have not been able to ascertain to what extent county boards of equalization increased or reduced the valuation of property. Neither the governors in their annual messages nor the state controllers in their reports, refer to the actions of the county boards of equalization.

e. State Tax Rate

From 1850 to 1872 California had proportioned,[37] rather than apportioned, rates of taxation. The rate of taxation was determined before the assessment roll was completed, and frequently before the total appropriations were known. Any correspondence between the expenditures and the receipts for any particular fiscal year was largely a matter of mere coincidence. We shall speak in the following chapters of the successful endeavor to set

[37] The terms, "Quotität-Steuer" and "Repartition-Steur" used by Professor Wagner in his treatise *Finanzwissenschaft* are more expressive than our words "proportioned" and "apportioned." He distinguishes between the two methods for determining the tax rate as follows: In the former case, the tax yield is the last step. The rate is determined and fixed before any exact knowledge is had of the amount of revenue it will produce. In the latter case, the fixing of the rate is the last step. The total amount of revenue to be raised is divided by the total value of the base, the quotient being the rate. Professor Wagner advocates the latter method because (1) it is more adapted to public control and business; (2) it is easier to control expenditures; (3) it is easier to enlist the interest of the individual taxpayer.

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aside this haphazard way of fixing the state rate of taxation, and of the adoption of a more businesslike method.

The legislature of 1851 raised the state tax rate from fifty cents on every one hundred dollars worth of taxable property to sixty-five cents. This rate remained in force during 1852 but was reduced to sixty cents in 1853. The rate was not changed again until the passage of the act of April 27, 1855, which levied an annual ad valorem tax of seventy cents on every one hundred dollars. No change was made during the following two years, but an act of February 27, 1858, reduced the state rate of taxation to sixty cents. This rate remained in effect during 1859.

f. Collection of the State Tax

The failure and inability of the county treasurers to collect the property tax for 1850 required some change in the revenue law. According to an act of May 1, 1851, the sheriff of each county had to collect all the taxes, except the foreign miners' license tax. For his services as tax collector he was allowed the following fees:[38] for all sums of $5,000 or less, paid by the county into the state treasury, 8 per cent; for all sums of over $5,000 and less than $10,000, 5 per cent; for all sums of over $10,000 and less than $50,000, 3 per cent; for all sums over $50,000, 2 per cent. These fees were changed by an act of April 23, 1852. Section 55 of this act read:[39] "The sheriff shall be allowed for collecting all taxes, except poll tax, the following rates, viz: Ten per centum on the first thousand dollars collected; eight per cent on any sum between one thousand and two thousand dollars collected; six per cent on all sums between two thousand and five thousand dollars collected, and three per cent on all sums above five thousand dollars; which percentage shall include all compensation for the collection of the same." The statute is not clear whether these fees were allowed on state and county taxes, or only on the former. An act of May 18, 1853, allowed the sheriff for collecting[40] and paying into the county treasury all

[38] *Statutes of California*, 1851, p. 161.
[39] *Ibid.*, 1852, p. 30.
[40] *Ibid.*, 1853, p. 265.

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taxes, except license taxes, the foreign miners' license tax, and poll taxes, 8 per cent on the first $5,000, 10 per cent on all sums between $5,000 and $10,000, and 15 per cent on all sums above $10,000. In the counties of San Francisco and Sacramento, he received 5 per cent on the entire amount collected by him and paid into the county treasury. These fees were not changed by the revenue act of May 15, 1854. An amendment[41] to this act, in 1855, divided the counties of the state into two classes. The sheriffs or tax collectors of the counties included in the first class were allowed for collecting and paying over all taxes, except the license taxes, the foreign miners' license tax and poll tax, 6 per cent on the first $10,000; 4 per cent on all sums over $10,000 and below $20,000; 3 per cent on all sums over $20,000 and under $50,000, and 2 per cent on all sums over $50,000, except that in the county of San Francisco the tax collector was allowed but 1 per cent on all sums above $200,000. In the counties of the second class, the sheriffs or tax collectors were allowed 6 per cent on the first $10,000; 8 per cent on all over $10,000 and under $20,000, and 10 per cent on all over $20,000. The classification[42] of the counties seems to have been based on the industrial pursuits of the people. The first class included the agricultural and commercial counties; the second, the mining counties. In the first class, the fees allowed the sheriffs or tax collectors decreased as the total amount of revenue collected increased; in the second class, the fees increased as the total amount of revenue collected increased. In the former case, the rates decreased from 6 to 2 per cent; in the latter, they increased from 6 to 10 per cent.

Hereafter, the fees allowed the tax collectors or the sheriffs for their services as tax collectors were fixed by special county acts passed by the legislature. Before the close of the first decade,

[41] *Statutes of California*, 1855, p. 121.

[42] The first class comprised the following counties: Santa Clara, Alameda, Monterey, San Luis Obispo, Santa Barbara, Napa, Sonoma, Contra Costa, San Joaquin, Santa Cruz, Tulare, San Bernardino, Sacramento, San Francisco, Mendocino, Marin, Solano, Los Angeles, San Diego, Stanislaus, and Yolo.

In the second class were included the remaining counties: Butte, Yuba, El Dorado, Plumas, Placer, Amador, Tuolumne, Calaveras, Sierra, Nevada, Trinity, Klamath, Shasta, Humboldt, Colusa, Siskiyou, Mariposa, and Sutter. (*Statutes of California*, 1855, p. 120).

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so many variations and modifications had been introduced that it seems inadvisable to state them in a work of this scope and character. The reports of the controllers and of the state treasurers from 1850 to 1860 do not show the cost of assessing and collecting the state tax. For the fifth fiscal year (1854–55) the controller allowed in his annual estimates 26 per cent for the cost of collecting the state tax and for delinquencies. For the following year he allowed, for similar purposes, 30 per cent. Governor J. Neely Johnson in the appendix to his annual message,[43] dated January 18, 1858, showed the amount of revenue paid into the state treasury from July 1, 1857, to January, 1858, and the cost of collecting the same to have been as follows:

County	Amount received	Cost of collection	Paid into treasury	Cost of Collection per cent
Alameda	$20.230.94	$3,140.96	$17,089.98	15.5
Amador	35,580.75	2,505.94	33,074.81	7.0
Butte	60,423.54	3,649.24	56,774.30	6.0
Calaveras	10,067.69	4,007.45	6,060.24	21.0
Colusa	10,596.44	895.39	9,701.05	8.5
Contra Costa	12,680.92	839.26	11,841.66	6.6
El Dorado	55,767.10	2,819.00	52,948.10	6.0
*Fresno	1,499.78	114.99	1,384.79	7.6
*Humboldt	1,895.61	210.06	1,685.55	11.0
Los Angeles	27,974.19	5,977.24	21,996.95	21.0
*Marin	2,202.03	137.19	2,064.84	6.5
*Mariposa	22,421.40	796.63	21,624.77	3.5
*Merced	674.56	68.63	605.93	10.0
*Monterey	981.84	174.19	807.65	17.7
*Napa	15,381.24	439.31	14,941.93	2.9
*Nevada	33,027.11	1,113.27	31,913.84	3.3
Placer	41,241.79	2,887.66	38,354.13	7.0
Plumas	3,943.67	1,919.99	2,023.68	8.0
Sacramento	77,010.44	6,802.25	70,208.19	8.8
San Bernardino	3,103.26	701.22	2,402.04	40.0
San Francisco	218,641.40	11,865.02	206,776.38	5.4
*San Joaquin	29,062.83	882.51	28,180.32	3.0
*San Luis Obispo	347.88	198.58	149.30	57.0
*San Mateo	2,542.26	146.66	2,395.60	5.7
Santa Barbara	1,632.49	348.07	1,284.42	21.8
Santa Cruz	8,244.00	913.91	7,330.09	11.0
Santa Clara	33,898.61	1,740.02	32,158.59	5.2
*Shasta	4,616.00	228.48	4,387.52	5.0
Sierra	22,594.75	4,828.05	17,766.70	21.0

[43] *Assembly Journal*, 9th Session, p. 61.

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County	Amount received	Cost of collection	Paid into treasury	Cost of Collection per cent
*Siskiyou	10,703.02	489.09	10,213.93	4.5
Solano	14,956.37	1,553.23	13,403.14	10.5
Sonoma	5,053.69	1,066.60	3,987.09	21.0
*Stanislaus	3,304.09	170.83	3,133.26	5.25
Sutter	11,116.58	774.01	10,342.57	7.0
Tehama	990.28	101.70	888.58	10.0
Trinity	13,424.53	688.47	12,736.06	5.1
Tuolumne	37,237.43	2,511.11	34,726.32	6.8
Tulare	5,074.40	858.31	4,216.09	16.7
Yolo	16,149.23	1,408.33	14,740.82	8.7
Yuba	45,495.51	4,116.70	41,378.81	9.0
Totals	$921,789.57	$74,089.55	$847,700.02	8.37

* These counties had presented no claims for the payment of assessors for 1857.

According to these figures, incomplete as they are, the cost of collecting the state tax varied from 2.9 per cent in Napa county, to 57 per cent in San Luis Obispo county; the average for the state being 8.37 per cent.

g. Enforcement

The first general property tax law was found to be defective in that the county treasurers who were to collect the property tax did not have sufficient legal authority to enforce its collection. An act[44] of May 1, 1851, remedied this by declaring that all assessments made in conformity with the law remained as a judgment and an execution against the party. If the taxes became delinquent the sheriff, upon giving ten days notice in writing, in the English and Spanish languages, was to seize and sell the property subject to taxation. An act[45] of April 29, 1857, authorized and compelled the tax collector, at the close of his official business on the third Monday in October of each year, to add 5 per cent to all unpaid taxes. The delinquent list, which had to be completed on the Saturday next preceding the third Monday in November, had to be published on or before the fourth Monday of the same month. In this publication notice had to be given of the time and place where the property, upon which the taxes had not been paid, would be sold. At any

[44] *Statutes of California*, 1851, p. 160.

[45] *Ibid.*, 1857, p. 331.

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time before the beginning of the sale, the owner of the property, or the party in possession, might inform the tax collector in writing as to which part of his property he desired to have sold. If the delinquent taxpayer did not make use of this prerogative, the tax collector had the authority to sell any portion, or all, of the property if necessary, to pay the taxes, penalties and cost.

The following table, the figures of which are taken from the reports of the state controllers, shows the valuation of property subject to taxation, the state rate of taxation on every one hundred dollars worth of taxable property, and the total amount of revenue realized by the state, from the property tax, from 1850 to 1859 inclusive:

Fiscal year ending June 30	Total valuation of property	Amount of personal property & money	Per cent of personal property to the total valuation	State rate of Taxation	Amount of State receipts from property tax[46]
.....–1850	$56,670,689.00	$13,968,797.00	24.22	.50	257,230.63
1850–1851	49,231,052.00	20,935,116.00	42.52	.65	227,288.07
1851–1852	64,579,375.00	24,213,395.00	37.49	.65	157,793.73
1852–1853	95,335,646.00	33,654,600.00	35.32	.60	398,106.75
1853–1854	111,191,630.00	39,040,428.00	35.11	.60	407,850.19
1854–1855	103,887,193.55	34,858,319.00	33.56	.60	374,771.51
1855–1856	95,007,440.97	40,942,699.00	35.60	.70	499,932.42
1856–1857	126,059,461.82	59,149.630.00	46.92	.70	710,211.63
1857–1858	123,955,877.00	54,185,728.00	43.01	.60	633,283.29
1858–1859	131,060,279.49	56,580,344.00	43.17	.60	668,801.98

A very interesting fact revealed by this table is the increase in the valuation of personal property. While the valuation of both real and personal property increased from $57,670,689 in 1850 to $131,060,279.49 in 1859, or about 145 per cent, the valuation of the personal property, during the same period, increased from $13,968,797.00 to $56,580,344.00, or nearly 315 per cent. This increase may be attributed to two causes: first, to the increase in the population of the state; and second, to the endeavor of the assessors and legislature to relieve land from excessive taxation and place a heavier burden on personal property. The receipts from the property tax show considerable fluctuation. The most marked increase took place for the fiscal year closing June 30, 1858, when the total receipts amounted to $710,211.63, as com-

[46] Though this column shows the receipts from the property tax, the money was not received until after the close of each fiscal year.

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pared with $499,932.42 for the previous year. This large increase was the result of the increased assessment in 1857 and the more efficient revenue law of that year. The decrease in the assessment roll from 1856 was caused chiefly by the panic of 1855 and the law enacted in 1856 to quiet land titles.

10. The Poll Tax, 1851–1860

Prior to 1853, the poll-tax receipts were merged with those from the general property tax, so that one cannot ascertain the exact amount collected. From the controller's recommendations and the governor's message, one learns that the collection of the poll tax during the first two or three years was not very successful. Because of the decline in wages paid to laborers, the legislature in 1851 reduced the poll tax from five to three dollars. The tax, collected by the sheriff of the county, was made a lien, which attached from the first day of March of each year, on all real and personal property owned by the person who was liable to pay poll tax. To stimulate the county officials and enlist their interest in the collection of this tax, the law provided that two-thirds of the proceeds should be paid into the county treasury for the benefit of the state and one-third for the benefit of the county.

On April 23, 1852, further changes were introduced. If the tax was not paid on or before the first Monday in September, it was raised to five dollars. Moreover this act required the assessor to collect the tax when he was assessing the real and personal property. For his services as poll-tax collector he was allowed 10 per cent of the amount collected. The delinquent poll tax was collected by the sheriff of the county, who was allowed one dollar out of every five dollars collected. Both the assessor and the sheriff were given the power to seize and sell any kind of property, except agricultural and grazing lands, and pre-emption claims, owned by any person who refused to pay his poll tax. No person who neglected or refused to pay the tax was allowed to appear as plaintiff or defendant in any possessory or other action, in any state court, except in criminal cases.

An act of May 18, 1853, required the assessor to collect the delinquent poll tax as well as the original. For collecting the

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five-dollar delinquent tax, he was allowed one dollar. All male inhabitants between the ages of twenty-one and sixty, unless exempt by law, had to pay poll tax. Under this act there was collected during the fiscal year closing June 30, 1854, $47,910.91, as compared with $63,829.15 during the preceding year. The revenue act of May 15, 1854, again modified the poll-tax law. According to this act the poll tax, if paid between the first Monday in March and the first Monday in October in each year, was three dollars; if not, four dollars had to be collected. The upper age limit was reduced from sixty to fifty years. The assessor charged with the collection of the tax was allowed a commission of 15 per cent on every three-dollar receipt issued, and one dollar of every four-dollar delinquent tax collected. To assure the collection of the tax the assessor was given the power to "seize so much of every and any species of property, right, claim or possession whatever, claimed by any person liable to, and refusing or neglecting to pay his poll tax, or in the possession of, or due from any other person and belonging to such person so refusing to pay such poll tax, as will be sufficient to pay such poll tax and costs of seizure; and shall and may sell the same at any time and place, upon giving a verbal notice, one hour previous to such sale."[47] To what extent one may attribute the increase in the poll-tax receipts to this added power of the assessor, we are unable to say. Of the three-dollar tax, 40 per cent of the net proceeds was paid into the county treasury for county purposes, and 60 per cent was to be used for state purposes. The receipts for the fiscal year 1855 were $61,559.82; for 1856, $63,533.95; for 1857, $61,812.42; for 1858, $81,872.43, and for 1859, $80,172.68.

11. The Salary Act of May 5, 1850.

Having described the revenue measures of the first legislature and the subsequent modifications of the property tax and the poll tax, we may now consider the state expenditures during the first decade, the means employed to replenish a depleted treasury, the state debt and the various funding acts. The constitution of 1849 did not establish an economical government, in that it pro-

[47] *Statutes of California*, 1854, p. 101.

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vided for annual sessions of the legislature and encouraged the payment of high salaries to state officers. The salary act of March 5, 1850, was not at variance with the spirit of the constitutional convention. This act fixed the salary of the governor at $10,000 per annum; of the secretary of state at $7,000; of the controller of the state at $8,000; of the state treasurer at $9,000; of the attorney-general at $7,000; of the surveyor-general at $7,500; of the state translator at $8,000; while each of the justices of the supreme court were to receive $10,000 per annum. The members of the legislature were allowed sixteen dollars per diem while the legislature was in session and sixteen dollars for every twenty miles traveled by the nearest mail route from their residence to the place of holding the session of the legislature, and in returning therefrom.

The second state legislature met January 6, 1850 in San Jose. The revenue laws enacted during the preceeding session had been given a trial, and according to the reports of Governor Burnett and State Controller John S. Houston were unpopular and unsatisfactory. The landowners complained of onerous taxation. The alien miners wherever possible evaded the foreign miners' license tax, while the poll-tax collector was not a welcome visitor. On December 15, 1850, the total state debt amounted to $485,460.28. This amount was composed of these items: temporary state loan, $270,650; interest due on temporary state loan, $71,836.04; controller's warrants outstanding, $142,974.24. The warrants were selling at more than fifty per cent discount. Without doubt the most important question before the legislature was the establishment of a financial policy whereby the credit of the state would be improved and the current expenses brought within the limits of the ordinary receipts. To increase the receipts, without resorting to additional taxation, the legislature decided to dispose of what is known as the San Francisco beach and water lot property. According to the act of March 26, 1851, the use and disposition of this property was granted to the city of San Francisco for ninety-nine years, on the condition that the city pay into the state treasury twenty-five per cent of all money arising from the sale or other disposition of the property. Because of the unscrupulous and dishonest officials who were called upon

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to sell the lots, the state never realized the money to which she was entitled. In 1854, an investigation[48] ordered by the Assembly showed that of the $242,311.78 due the state only $78,567.95 had been paid.

12. The Funding Act of April 29, 1851

The next thing to which the legislature resorted was the funding of the state debt. An act[49] of April 29, 1851, authorized and required the state treasurer to prepare and issue $500.00 bonds to an amount not exceeding $700,000. One-half of the principal was made payable in New York on March 1, 1855, and the remaining half on March 1, 1861. The interest, seven per cent per anum, was payable semi-annually, July 1 and January 1, at New York or at the office of the state treasurer. Bonds authorized by this act were to be given in exchange for controller's warrants or temporary state loan bonds of 1850. To pay the interest, the act levied an ad valorem tax of fifteen cents on every one hundred dollars worth of taxable property in the state. Into the sinking fund were to be paid:

1. Any and all surplus remaining after the payment of interest.
2. Any and all money received by the state of California from the United States on account of the "civil fund."
3. The proceeds from the sale of all lands which were then held or acquired later by the state, except those reserved by the constitution for school purposes.

The money thus accumulated in the sinking fund was to be applied as soon as practicable to the redemption of the principal or converted by the treasurer of the state into United States six per cent bonds. The act also required that after May 1, 1851, all revenue of the state should be collected in the legal currency of the United States, or in gold dust at $16.00 per ounce troy weight, except that bonds issued under the temporary loan act

[48] The Assembly committee reported the following sales, viz.:

Payments made as per schedule D	$512,488.67
Notes which became due February 28, 1854	151,043.48
Notes which became due April 27, 1854	186,275.00
Sales made by Fund Commissioners	119,440.00
Total sales	$969,247.15
State's share, 25 per cent	$242,311.78
Received by the state heretofore	78,567.95
Due to state	163,743.83

[49] *Statutes of California*, 1851, pp. 301–304.

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of 1850 were, as heretofore, to be received in payment of all state dues.

13. The Salary Act of May 1, 1851

To reduce the expenses of the state a second salary bill[50] was approved by the governor on May 1, 1851. This law fixed the salary of the governor at $6,000 per annum; of the state treasurer at $5,000; of the state controller at $5,000; of the secretary of state at $3,500; of the attorney-general at $1,000; of the surveyor-general at $500; of the judges of the supreme court at $7,000 each. Members of the legislature were to be paid ten dollars per diem during the first sixty days the legislature was in session, and five dollars per diem thereafter. The lieutenant-governor and the speaker of the assembly were each to get fifteen dollars per diem. In addition to the per diem compensation, members of the legislature were allowed eight dollars for every twenty miles traveled by the nearest mail route from their residence to the place of holding the session of the legislature, and in returning therefrom.

14. The State Debt and Expenditures—1852

In spite of these measures the state debt continued to increase. The nature and the amount of the indebtedness as shown by the state controller in his annual and special reports of January 22, 1852, was as follows:

STATE DEBT

	June 30 1851[51]	Dec. 31, 1851[52]
3 per cent per month bonds of 1850	$165,000.00	$147,075.00
Interest on same	75,976.42	94,196.11
7 per cent bonds of 1851	33,500.00	379,500.00
Interest on same	88.86	10,000.00
Controller's warrants outstanding	437,703.56	166,192.84
Total civil debt	712,268.86	796,963.95
War debt	158,732.30	
Indian war bonds of Feb. 18, 1851		200,000.00
Interest due on the same		12,000.00
War loan warrants outstanding		223,375.79
War claims yet to be presented (estimated)		1,000,000.00
Total debt	$871,001.16	$2,232,339.74

[50] *Statutes of California*, 1851, pp. 444–445.

[51] *Senate Journal*, 1852, p. 491.

[52] *Ibid.*, 1852, p. 565. For special report see *Senate Journal*, 3rd Sess., p. 578.

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The indebtedness incurred in suppressing Indian hostilities, was, of course, a valid claim against the federal government. In time, as we shall see later, the greater portion of this expenditure was recovered by the state. For the time being, however, it was a state expense for which provision had to be made. With a probable state debt of over two million dollars to be taken care of, and a deficit of $254,906.38 in the state treasury, the third legislature had indeed a Herculean problem to solve. In the hope of relieving the financial situation, new license taxes were levied and a second funding bill was passed.

15. License Taxes

a. Auction Duties

The first legislature levied a few license taxes, such as the foreign miners' license tax (mentioned above) and auction duties. More and more were added or introduced as the financial needs of the state increased, until at the close of the decade there existed such a comprehensive system of state licenses that one finds it difficult to discover any industry or enterprise, save agriculture, escaping from this method of taxation.

The first of these numerous license taxes to claim our attention are the auction duties. An act[53] of April 22, 1850, authorized the court of sessions to appoint all auctioneers. According to the law, all goods, wares, merchandise and every kind of property, unless exempt, which should be exposed for sale at public auction or be sold by auctioneers, was subject to the following duties:

1. All wines and ardent spirits, foreign or domestic, and all brewed and malt liquors, at the rate of two dollars on every hundred dollars.
2. All tobacco and cigars, at the rate of two dollars on every hundred dollars.
3. All other goods, wares and merchandise, and effects, sold in packages, bales, trunks, or casks, as imported, at the rate of one dollar and fifty cents on every one hundred dollars.
4. All other goods, wares, merchandise and effects, at the rate of one dollar on every one hundred dollars.
5. On all sales of real estate, fifty cents on every one hundred dollars.

[53] *Statutes of California,* 1850, pp. 456–458.

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No duty had to be paid on goods which belonged to the state or to the United States, or if sold under the legal process of any court. The duties were paid by the auctioneer making the sale into the county treasury for the benefit of the state. In 1853, the law was modified and a duty of one per cent was charged on the selling price of all goods and merchandise, except those exempt, and one-half of one per cent on the selling price of real estate. This law required auctioneers to secure a license. In cities with a population of less than 10,000, the license cost $100 per quarter year, and in cities with a population of more than 10,000 it cost $250 per quarter. The cost of the license was reduced by an act of 1854, so that in cities with a population of more than 10,000 the auctioneer's license cost only $125 per quarter; in cities with a population of not less than 5,000 or more than 10,000, $100 per quarter; and in cities with a population less than 5,000, $30 per quarter. The duty on the sale of personal property of every description was reduced from one to one-half of one per cent, the same as the duty on real estate. These rates were collectible on all goods struck off, regardless of whether or not they were actually sold. The law of 1857 amended the act of 1854, so that the duty was collected only on goods actually sold.

An act[54] of April 18, 1859, introduced a different principle for computing the cost of the auctioneer's license. Instead of basing the cost of the license on the population of the city, or community, this act based it on the monthly sales made by the auctioneer, as follows:

Class	Amount of sales per month	Cost of license per quarter
I.	$100,000 or more	$400.00
II.	75,000 and less than $100,000	300.00
III.	50,000 and less than 75,000	200.00
IV.	30,000 and less than 50.000	125.00
V.	20,000 and less than 30,000	100.00
VI.	10,000 and less than 20,000	60.00
VII.	Less than $10,000	25.00

This act did not change the auction duties. All money from the sale of licenses had to be paid into the county treasury, two-

[54] *Statutes of California*, 1859, pp. 352–355.

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thirds for state purposes, and one-third for the benefit of the county.

The following table shows the receipts from the sale of auctioneers' licenses and from auction duties:

Fiscal year	Auctioneers' licenses	Auction duties
1851	.....	$40,158.70*
1852	.....	111,729.47*
1853	.....	2,232.68
1854	3,692.58	28,886.07
1855	14,146.79	31,753.42
1856	4,157.95	3,955.49
1857	4,962.96	1,100.92
1858	2,510.80	652.47
1859	1,486.07	576.84

* Includes receipts from gaming licenses.

b. Gaming License

The state constitution prohibited lotteries. An act of March 14, 1851, known as the Act to License Gaming, prohibited the playing of games known as "French Monte" or "Three Card Game"; "Loop," "Thimble," or "Lottery." Excepting these prohibitions, gaming was allowed upon the condition that a person keeping a house for such purposes should first secure a license from the county treasurer. The cost of the license varied with the number of tables owned and the locality in which the house was situated. In the cities of San Francisco and Sacramento, the cost of a license for a house in which there were more than three tables was $1,500 for every three months; if three tables or less, $1,000 for every three months. In all other parts of the state, $35.00 per month had to be paid for every table used for gaming purposes. Three-fourths of the money collected by the county treasurer was for state and one-fourth for county purposes. On April 29, 1851, the act was amended and Marysville put in the same class as San Francisco and Sacramento. Prior to 1853, the receipts from this source were merged with the receipts from auction duties. In 1853, the receipts from the sale of gaming licenses amounted to $50,711.67; in 1854, to $15,013.-35; in 1855 to $5,931.02; in 1856 to $1,065.79. The decrease in the state receipts from the gaming license was caused by a

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change in public opinion which disapproved of the law, and operated to nullify its enforcement.

c. Billiard Table and Bowling Alley License Tax

In the gaming license tax act of 1851, there was a special provision stating that no part of the act should apply to pool and billiard tables. In 1852 the legislature levied a state license tax of ten dollars per month on every billiard table, kept by any person with a view to making a profit. In 1853 an amendment to the law prohibited the sale of a license for a period of less than three months. In 1856 the thirty-dollar per quarter per table rate was reduced to ten dollars, and the counties were allowed to retain one-half of the receipts for county purposes. An act of 1852 also levied a state tax of five dollars per month on every bowling alley. An act of 1856 levied a tax of ten dollars per quarter and, as in the case of billiard-table licenses, counties were allowed to retain one-half of the proceeds. The receipts from these two sources were: in 1853, $501,25; in 1854, $6,751.24; in 1855, $22,150.29; in 1856, $10,940.72; in 1857, $9,726.70; in 1858, $10,977.88 and in 1859, $10,542.54.

d. Foreign Miners' License Tax

We have heretofore spoken of the foreign miners' license tax of 1850, and its repeal in 1851. On May 4, 1852, a new law was enacted. Remembering the storm of opposition aroused by the former act, the legislators exercised their power in a more conservative and judicial manner. Instead of charging the foreign miner a fee of twenty dollars per month for working in the mines of the state, they levied a license tax of three dollars a month. The tax was to be collected by the sheriff, who was allowed ten per cent on all amounts collected. The state was to receive but fifty per cent of the gross receipts. The remaining fifty per cent, less the commission allowed the sheriff, was paid into the county treasury for the benefit of the county in which the tax was collected. During the fiscal year of 1853, $53,121.01 was collected, as compared with $34,150.00 under the law of 1850 while it was in force. Being convinced that this tax could be made to yield more revenue, the legislature, by an act of

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March 30, 1853, raised the cost of a license from three to four dollars per month. To insure the collection of the tax, the law authorized the sheriff to appoint deputies to assist him in collecting it. The deputies were to receive fifteen per cent of the amount collected by them. Whenever this allowance was insufficient, the board of supervisors, or the county judges in counties where there was no such board, could increase the fees of the deputies to not exceeding twenty-five per cent. As a result of this law, the receipts for 1854 were $100,557.92 and in 1855, $123,323.25. Encouraged by this showing the legislature decided upon further experimentation. Prior to 1855, all aliens, no matter whether eligible or desirous of becoming American citizens or not, were taxed alike. The idea that the law should make some distinction between the foreigner eligible to citizenship and the foreigner who was not, and came merely to acquire a fortune, found many adherents. On April 30, 1855, the law was amended. As to the former class, the rate remained the same. As to the latter, an attempt was made to introduce a progressive rate. Until October 1, 1855, aliens[55] ineligible to citizenship, were to be charged four dollars a month; from October 1, 1855, to October 1, 1856, six dollars a month; from October 1, 1856, to October 1, 1857, eight dollars a month and so on, increasing each year by two dollars per month. The progressive feature of this amendment was never given a fair trial. On April 19, 1856, it was repealed and a uniform rate of four dollars a month again established. The change in the law was partially responsible for the large receipts in 1856, when $185,759.35 was collected. After that year the revenue from this source gradually declined. In 1857, it amounted to $138,604.64; in 1858, to $129,967.91; and in 1859, to $119,871.67.

e. The Passenger Commutation Tax

On May 3, 1852, the governor approved the commutation or passenger tax bill. The purpose of this law was to guard against the ever-increasing pauper class and to secure money to pay the expenses of the state marine hospital. The master of every ves-

[55] The purpose of the progressive rate was primarily to discourage Chinese immigration.

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sel bringing immigrants into California had to give a five-hundred dollar bond for every such passenger, to indemnify the state against all costs and expenses for his or her relief for a period of two years. If the alien was likely to become a pauper in his native land, a bond of $1,000 was required. These bonds the master of the vessel might commute by paying not less than five nor more than ten dollars, as determined by the commissioner of immigration, to whom the enforcement of the law was intrusted. On April 28, 1855, the governor approved an act which levied a tax of fifty dollars on every immigrant not eligible to citizenship in this state or the United States. While the act was general in its wording, it was passed for the sole purpose of discouraging Chinese immigration. In 1857, the Supreme Court[56] of California declared the act unconstitutional, on the ground that the state could not impose a tax on immigrants.[57]

f. Tax on Consigned Goods

In order to tax the importing merchants, so it was claimed, the legislature in 1852 passed what is known as the consigned goods act.[58] The term "consigned goods" was defined to include "all goods, wares, merchandise, provisions, or any other property whatsoever, brought or received within the state from any other state, or from any foreign country, to be sold in this state, any part or portion of which shall be owned by any person or persons not domiciled in this state." No person was allowed to sell any consigned goods without first having obtained from the sheriff, or deputy tax collector, a license which was not granted for a shorter period than one month. The tax, eighty cents on each one hundred dollars of the amount of the sale,[59] had to be paid by the person making the sale.

[56] *People* v. *Downer et al.* 7 Cal. 170 (January, 1857.) Also see Passenger Cases, 7 Howard, 282.

[57] Receipts from the Passenger Commutation Tax as reported by the controller:

1852	$24,391.25	1856	$602.95
1853	85,885.70	1857	6,801.50
1854	31,058.00	1858	9,172.50
1855	29,292.50	1859	3,768.00

[58] *Statutes of California*, 1852, p. 34.

[59] No tax was levied on sales amounting to less than $200.00.

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This law was resented by the San Francisco merchants on the ground that the city was already paying nearly one-half of the state taxes. To ask them to bear this additional burden they held was a "rank injustice." Mass meeting after mass meeting was held with the hope of forcing the legislature in 1853 to repeal the act. This the legislature refused to do, but on May 18, 1853, it reduced the rate to sixty cents on every one hundred dollars worth of imported goods sold. The reduction in the rate did not satisfy San Francisco. In his annual report for 1853, the controller of state says of this law: "It is evaded and resisted on all hands. Public meetings are held, arguments written against it, vexatious litigation begun and all sorts of subterfuges resorted to." Finally a test case was prepared and brought before the Supreme Court of California. The opponents of the law contended that it violated the federal constitution, in that it attempted to regulate commerce with foreign nations and levied a duty on importations. They also maintained that it violated the state constitution, which required taxation to be equal and uniform throughout the state. The court,[60] in upholding the statute, declared that the tax on consigned goods was not a tax on importation, but a tax on sales. No sooner was the decision handed down than the merchants of San Francisco raised $75,000 to appeal the case to the Supreme Court of the United States. In 1854 the rate was reduced to fifty cents on every one hundred dollars worth of goods sold, while in 1857 the law was repealed.[61]

g. Express License Tax

According to an act of May 4, 1852, a license was to be paid by any person, firm or corporation engaged in the following business:

> In buying or selling foreign or inland bills of exchange, or in loaning money at interest, or in buying or selling notes, bonds, or other evidences of indebtedness of private persons, or state, county, or city stocks, or in buying or selling gold dust, gold or silver coin or bullion, or engaged as common carriers in transmitting or conveying gold dust, gold or silver

[60] *The People* v. *Coleman et al.*, 4 Cal. 46 (January, 1854.)

[61] Figures showing the amount of tax collected:

1853	$66.20	1855	$33,417.20
1854	601.95	1856	15,425.00
1857	1,141.18		

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coin or bullion, from any place in this state to any place without this state, or from one to another place within this state, for profit, or engaged in making, or in anywise executing any policy of insurance, thereby guaranteeing or insuring the safe carriage or transmission of any article of value, from any place in this state to any place without this state, or from one to another point in this state, for a valuable consideration, or engaged in receiving general or special deposits of gold dust, gold or silver coin or bullion for profit.[62]

Before a person, firm or corporation could secure a license from the county auditor, a statement had to be filed with the county treasurer, giving an estimate of the gross amount of business expected to be done during the ensuing three months. The cost of the license depending on the estimated amount of business was:

Estimated Amount of Business per 3 months.	Cost of license per 3 months
Over $5,000 and under $20,000	$25.00
Over 20,000 and under 50,000	125.00
Over 50,000 and under 100,000	250.00
Over 100,000 and under 500,000	500.00
Over 500,000 and under 1,000,000	750.00
Over 1,000,000 and under 2,500,000	1,000.00
Over 2,500,000	1,250.00

These rates were in force for only about one year when the legislature passed a law levying a proportional rate of ten cents on every one hundred dollars worth of business. In 1854 the graduated rates were again introduced, but different charges were imposed on brokers and bankers. Brokers and dealers in gold dust were divided into the five following classes:

Class	Amount of business per 3 months	Cost of license per 3 months
I.	$250,000 or over	$100.00
II.	200,000 and less than $250,000	80.00
III.	100,000 and less than 200,000	40.00
IV.	50,000 and less than 100,000	20.00
V.	Less than $50,000	15.00

Bankers and dealers in exchange were divided into the following classes:

Class	Amount of business per month	Cost of license per month
I.	$500,000 or over	$100.00
II.	300,000 and less than $500,000	60.00
III.	200,000 and less than 300,000	40.00
IV.	100,000 and less than 200,000	20.00
V.	Less than 100,000	15.00

[62] *Statutes of California*, 1852, p. 90.

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The amount of revenue collected from express licenses, and brokers' and bankers' licenses was very small.

h. Merchants' License Tax

Prior to 1852, the state permitted the county to levy a license tax, for county purposes, on merchants and pedlers. An act of April 22, 1850, levied a tax of not less than $20.00 nor more than $250.00 per year. The exact amount to be levied was left to the discretion of the court of sessions. An act of May 1, 1851, levied the following rates: On all merchants selling foreign or domestic goods, twenty dollars per annum; on all retail dealers of wines, spirits, and liquors, fifty dollars per annum; on all traveling merchants, hawkers and pedlers, fifty dollars per annum; on all retailers of wooden, brass or composition clocks, fifty dollars per annum. An act of May 4, 1852, levied a state license tax

> On every person who shall deal in the selling of any goods, wares and merchandise, wines and distilled liquors, drugs or medicines, except the agricultural productions of this state, and except such as are sold by auctioneers and commission merchants, under license or permission according to law and by licensed tavern keepers.[63]

Merchants and dealers were classified according to their average monthly sales, and had to pay the following license taxes:

Class	Average monthly sales	Cost of license per month
I.	$100,000 or more	$50.00
II.	50,000 and not over $100,000	25.00
III.	40,000 and not over 50,000	20.00
IV.	30,000 and not over 40,000	15.00
V.	20,000 and not over 30,000	10.00
VI.	10,000 and not over 20,000	5.00
VII.	5,000 and not over 10,000	2.50
VIII.	2,500 and not over 5,000	1.50
IX.	1,000 and not over 2,500	1.00
X.	Less than 1,000	.50

These rates applied to all counties except Sacramento and San Francisco, in which the board of supervisors had the authority to fix the rates, provided that the rates fixed by them were not in excess of those just mentioned. The changes made by the acts of May 18, 1853, and March 15, 1854, where of such a minor character that it is not necessary to state them. The receipts

[63] *Statutes of California*, 1852, p. 92.

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from the merchant's license tax were $6,035.34 in 1853; $4,841.50 in 1854; $13,438.48 in 1855; $7,525.24 in 1856; $12,809.03 in 1857; $51,714.99 in 1858, and $11,061.87 in 1859.

16. The Funding Act of 1852

With the purpose of postponing the payment of the outstanding controllers warrants, the legislature passed the funding act of 1852.[64] This authorized the state treasurer to issue and sell $600,000 of seven per cent state bonds, payable on March 1, 1870, either in New York, or at the office of the state treasurer as the holder of the bonds might desire. To pay the interest, the act levied an annual *ad valorem* tax of ten cents on every one hundred dollars worth of taxable property. If at any time this tax did not yield sufficient money to pay the interest, the state treasurer could draw on the sinking fund. Section 5 of the act provided that all persons holding any controller's warrants issued in payment of any debt which had been or might be contracted for civil purposes between April 29, 1851, and December 31, 1852, should upon presenting them to the state treasurer receive in exchange bonds issued under the funding act of 1852, provided that the amount of the claims be not less than one hundred dollars and that no bonds be issued except in the denominations of $100, $150, $500 or $1,000. Another section (14) required the state treasurer to give notice through one or more newspapers, on or before May 30, 1852, that the outstanding bonds of February 1, 1850, should be presented at the state treasurer's office on or before January 1, 1853, for redemption or adjudication.

To redeem the principal of the bonds of 1852, the state treasurer was required to pay into the sinking fund the following money: first, all surplus from the interest tax; second, all money received from the United States government on account of the "civil fund," after the payment of the bonds of 1851, save the sum of $50,000 which was to be set aside for the payment of any claims chargeable to the "civil fund"; third, the proceeds from the sale of lands that might be acquired by the state, except those lands reserved for school purposes, and the swamp lands

[64] *Statutes of California*, 1852, pp. 13–17.

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which might be received after the redemption of the bonds issued under the act of April 29, 1851; fourth, any surplus accruing from the act, in the general treasury, after July 1, 1853, and every year thereafter.

17. The State's Financial Condition, June 30, 1852

At the close of the fiscal year ending June 30, 1852, the state's financial condition was worse than ever. The total revenue for the year amounted to $366,825.07, the expenditures to $925,694.56, causing a deficit of $558,869.49. On December 15, 1852, the civil debt,[65] as reported by the state controller, was $1,388,213.78; the war debt, $771,190.05, making a total of $2,159,403.83. This amount did not include $190,080.00 of school warrants on which the state was paying seven per cent interest.

For the ensuing year the state controller estimated the receipts at $434,150.00; the expenditures at $1,093,213.68. On June 30, 1853, the books of the controller and the state treasurer showed that the receipts were $454,185.85; the expenditures, $1,269,149.13, while the deficit, the largest during this decade, was $814,963.28. The civil debt of the state had reached the total of $2,077,196.05. The controller attempted to justify the large

[65] The nature of the state debt on December 15, 1852, was:

Civil Debt:		
Three per cent per month bonds of 1850	$63,650.00	
Interest on the same	63,800.00	
		127,450.00
Seven per cent bonds of 1851	397,000.00	
Interest on the same	3,218.58	
		400,218.58
Seven per cent bonds of 1852	790,500.00	
Interest on the same	281.41	
		790,781.41
Controller's warrants outstanding		69,763.79
Total civil debt		1,388,213.78
War Debt:		
Twelve per cent bonds of 1851	200,000.00	
Interest on the same	39,812.20	
		239,812.20
Seven per cent bonds of 1852	478,000.00	
Interest on the same	10,650.00	
		489,650.00
War warrants outstanding		41,727.85
Total war debt		$771,190.05

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expenditures and debt on the plea that California had been the victim of circumstances. The immigrants, a heterogenous mass drawn hither by the discovery of gold, brought little property with them. Upon their arrival many were sick and destitute. To relieve their wants, the state and the counties were obliged to furnish, at large expense, food, clothing and hospital care. Not only had the federal government failed to pay to California the money in the "civil fund," but the central authorities, by a method of procrastination, obliged California to suppress Indian uprisings and to pay the expenses thus incurred. These things had to be done at a time when the state treasury was facing a deficit, when the public lands were almost worthless and the state warrants were selling at a discount of fifty per cent.

In his message of January 3, 1853, Governor Bigler recommended a thirty-three per cent reduction in the salaries of all the state officers; the abolition of the office of superintendent of public instruction and of the office of superintendent of public buildings; the reduction of the number of the judicial districts from eleven to eight; the abolition of the office of county attorney; the repeal of that part of the constitution which required a census to be taken in 1855, and a constitutional amendment providing for biennial sessions of the legislature, limited to ninety days.

However, the legislature failed to act favorably upon any of the governor's recommendations. The lawmakers were content in revising the revenue laws and levying several new license taxes, such as a license tax upon the lessees or managers of theatres, concerts and serenaders;[66] upon restaurants, coffee-

[66] An act of 1853 levied upon the lessees or managers of theatres, concerts and serenaders, the following license tax: if the license was granted for less than one month, $10 per day; if for one month, $150; if for three months, $300; if for one year, $1,000. The receipts from the first class were paid into the county treasury for county purposes, from the remaining three classes, for state purposes. In 1856, the cost of a license, if for less than one month, was reduced to five dollars per day; if for one month, to $100; if for three months, to $200; if for one year, to $1000. Under this law, one-half of the receipts were for county and one-half for state purposes. From this source the state received in 1854, $194.00; in 1855, 489.85; in 1856, $1,740.95; in 1857, $1,797.07; in 1858, $2,723.16; in 1859, $2,280.00.

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and eating-houses;[67] upon livery stables;[68] upon insurance companies;[69] and upon liquor dealers.[70]

20. The Funding Act of 1855

The report of the state controller shows that the receipts for the fiscal year of 1854 were $1,022,647.32, as compared with $454,185.85 for the previous year. The decrease in the receipts from some of the license taxes was offset by the increase in the property-tax receipts from $157,793.73 to $398,106.75, and $361,038.20 received from the sale of state lands. During the same year the state expenditures were $1,204,757.96, while

[67] Restaurant keepers had to pay a license tax of twenty dollars per quarter. Proprietors of places where beverages, other than spirituous liquors, were sold, had to pay ten dollars per quarter. Both of these measures were repealed in 1856.

[68] An act of 1853 levied upon the owners of livery stables the following monthly license taxes:

	Average monthly business	Cost of license
Class I.	Below $10,000	$5.00
Class II.	$10,000 and not above $25,000	10.00
Class III.	25,000 and not above 50,000	18.00
Class IV.	50,000 and not above 100,000	30.00
Class V.	More than 100,000	50.00

Two-thirds of the proceeds of this tax was for county and one-third for state purposes.

[69] An act of 1853 levied a license tax of $250.00 per quarter on every domestic insurance company, and a tax of $500.00 per quarter on every foreign insurance company doing business in this state. In 1856, the charge imposed on domestic companies was reduced to $25.00 per quarter, and that on foreign companies to $100.00 per quarter.

[70] An act of May 15, 1854, levied upon liquor dealers the following monthly license taxes:

	Average monthly business	Cost of license
Class I.	$100,000 or over	$50.00
Class II.	75,000 and not over 100,000	27.50
Class III.	50,000 and not over 75,000	25.00
Class IV.	40,000 and not over 50,000	20.00
Class V.	30,000 and not over 40,000	15.00
Class VI.	20,000 and not over 30,000	10.00
Class VII.	10,000 and not over 20,000	7.50
Class VIII.	5,000 and not over 10,000	5.00
Class IX.	1,000 and not over 5,000	3.75
Class X.	Below 1,000	2.50

The receipts from the first eight classes were paid into the county treasury for the benefit of the state, from class nine and ten for the benefit of the county. An act of April 27, 1855, required that all the money should be paid into the county treasury for the benefit of the state. An act of April 29, 1857, provided that one-half of the proceeds should be paid into the county treasury, for state, and one-half for county purposes.

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the deficit in the state treasury amounted to $182,110.64, as compared with $814,963.28 for the preceding year. Beside this deficit there were, on June 30, 1854, more than $400,000 worth of controller's warrants outstanding. Including these, the total civil debt[71] of the state was $2,520,204.80.

In order to postpone the payment of the controller's warrants, Governor J. Neely Johnson recommended the enactment of a law which would provide for the funding of this debt. Accordingly an act of March 16, 1855, authorized and required the state treasurer to prepare, issue and sell, $700,000 worth of fifteen year seven per cent state bonds. To pay the interest on the bonds and to redeem the principal, the act levied an annual ad valorem tax of six cents on every hundred dollars' worth of taxable property. Under the provisions of this law, all state indebtedness in the form of controller's warrants issued at any time between June 30, 1853, and July 1, 1855, could be funded.

To reduce the state expenditures and lessen the burden of taxation, Governor Johnson advocated the sale of so much of the public lands as would be necessary to redeem the bonds issued under the act of 1852. By paying this debt, he argued, the rate of taxation might be reduced at least thirty cents on every hundred dollars' worth of taxable property. The governor's policy,

[71] The following, taken from the report of the state controller, is a condensed statement of the civil debt of the state on June 30, 1854 (*Controller's Report*, 1854, p. 27):

Three per cent per month bonds of 1850	$3,975.00	
Interest due thereon	5,849.75	
		$9,824.75
Seven per cent bonds issued under the act of April 28, 1851:		
Payable in 1855	116,500.00	
Payable in 1861	217,500.00	
		334,000.00
Seven per cent bonds issued under the act of May 3, 1852		1,394,500.00
State prison bonds issued under act of May 11, 1853		15,000.00
Controller's warrants outstanding		411,215.61
Due school funds for interest on amount received from the sale of school bonds		19,104.25
		2,183,644.61
Deduct cash in treasury		127,439.81
Total civil debt, proper		2,056,204.80
Amount due school fund		464,000.00
		$2,520,204.80

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which included the payment of twenty per cent premium to the bond holders, to induce them to surrender the bonds, was not adopted by the legislature.

21. The Funding Act of 1856

For the fiscal year closing June 30, 1855, the state receipts amounted to $1,155,537.10 and the expenditures to $1,337,496.64 According to the governor's statement, the general fund was in debt for more than $200,000. The controller reported that $296,769.30 of civil warrants were outstanding and that the total civil debt was $3,040,458.56.[72] On April 19, 1856, the governor approved another funding bill.[73] By this act the state treasurer was authorized to issue and sell not more than $1,500,000 seven per cent state bonds, payable in 1875, at New York, San Francisco or at the office of the state treasurer, as the bond holder might desire. The law levied an annual ad valorem tax of ten cents on every one hundred dollars worth of taxable property in the state, to pay the interest on the bonds, and redeem the principal. If at any time there was a deficit in the interest fund, the state treasurer could draw on the general fund. If the general fund was exhausted, he could enter into any contract and make such payments as he thought necessary to protect the credit of the state.

22. The State Debt Declared Unconstitutional

None of the funding acts mentioned heretofore were submitted to the people for approval. The question of their sub-

[72] Statement of Civil Debt, June 30th, 1855:

Three per cent per month bonds of 1850	$2,925.00	
Interest on same	3,963.95	
		$6,888.95
Seven per cent bonds of 1851		273,500.00
Seven per cent bonds of 1852		1,389,600.00
Seven per cent bonds of 1855		700,000.00
State prison bonds of 1853		9,000.00
Controller's warrants		296,769.30
		2,675,758.25
Deduct cash in treasury		99,299.29
		2,576,458.96
Amount due school fund		464,000.00
Total		$3,040,458.96

[73] *Statutes of California*, 1856, pp. 213–5.

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mission was raised occasionally, but the legislature ignored the constitutional provision prohibiting it from creating an indebtedness in excess of $300,000, except under certain conditions. Because of the constitutional limitations foreign investors hesitated to purchase California bonds save at a large discount. Here at home, bankers and brokers purchased controller's warrants at thirty or forty per cent discount and exchanged them for state bonds issued under one or the other of the funding acts. Frequently state and county officials used the gold and silver coin collected as taxes to purchase the depreciated bonds and state warrants. Former State Treasurer S. A. McMeans and Treasurer Bates were accused of misappropriating public funds. Palmer, Cook and Co., state bankers,[74] in order to depreciate state bonds, so it was alleged, withheld the payment of interest in New York. A letter published in the *San Francisco Bulletin,* April 15, 1856, gives a good epitome of the situation. In part, it reads:

> Millions of dollars annually have been extracted from the people of California, under the plea of protecting them in their rights of persons and property. Millions more in providing offices, and paying officials to fill them. Yet no man's life is safe in mountain gulch, or city street—no man's property secure in bank, in pocket or in investment. Officials plunder the public, squander their ill-gotten gains in brothels, saloons and dens of gambling, steal their official bonds, and then defy laws and judges to punish them for their double villainy. . . . The resources of the state have been squandered by political blacklegs and official thieves. Sums so enormous as to appear incredible, have been annually filched from the pockets of the people, and yet the treasury is empty and the public debt unpaid. The state possesses nothing to show for these extravagances, except depreciated credit and corrupt legislation.

The day of reckoning was, however, not far distant. An act[75] of April 28, 1855, appropriated $100,000 for the construction

[74] It was the practice, during this decade, to pay the interest on bonds held in New York through some banking house. Major Roman, state treasurer, appointed Palmer, Cook & Co. His successor, Mr. S. A. McMeans, reappointed them. In 1854 they had failed to pay the interest but the credit of the state was saved by the quick action of Duncan, Sherman & Co. In spite of the fact that Palmer, Cook & Co. had violated their contract, Bates, upon assuming the functions of state treasurer, made a new agreement with them. In 1856 they failed a second time to pay the interest.

[75] *Statutes of California,* 1855, pp. 180–181.

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of a wagon road, from Sacramento to the Sierra Nevada mountains. This appropriation was bitterly opposed by the representatives of the agricultural sections of the state. Defeated in the legislature, they attacked the constitutionality of the act. In the case of *People* v. *Johnson,* 6 Cal. 499 (1856), the Supreme Court of California held the act void because it was not submitted to the people for their approval, as required by the constitution. Not only did the court hold the act of April 28, 1855, void, but it declared that the entire state debt, in excess of $300,000, was unconstitutional. The court in handing down its decision casts some light on the economic and social conditions in 1856. After speaking of the non-observance, by the legislature, of the constitutional provisions limiting the debt which the legislature might incur to $300,000, except to repress insurrection and repel invasion, the court continued:

> Had a different course been pursued, then we might have proudly boasted, not only of our soil, climate, and mineral resources, but of that legislative wisdom which appreciated these rare advantages, and protected them for the inhabitants of our favored state. Instead of the prospect that everywhere meets the eye, of business stagnation, distrust, debt, taxation, and a high rate of interest, we might have been justly proud of our credit and character, and challenged the confederacy to show a state where labor was so highly remunerated, or property so lightly taxed for the purposes of government. . . . If we were at liberty to decide this case on grounds of public policy, we could not hesitate one moment between bankruptcy and ruin, or credit and prosperity. It is time that the ax should be laid at the root of this political evil; that this system of extravagance, which has been the curse of the state for the last five years, exhausting the substance of the people, destroying our credit abroad, and corrupting and demoralizing our citizens at home, should be stopped; and that honesty, prudence and economy should preside over the legislation of the state, and the administration of her financial affairs.[76]

The court was not content by merely declaring the funding acts void, but suggested a way out of the difficulty. The credit of California might be saved if the people at the next popular election would assume and legalize the debt, by approving an act to fund the outstanding claims against the state of California.

[76] *The People* v. *Johnson et al.,* 6 Cal. 499. See also *Nougues* v. *Douglass et al.,* 7 Cal. 65 (January, 1857).

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Quick action was necessary, because for the time being California was considered as belonging to the group of states which had brought disgrace and dishonor upon themselves by repudiating their state obligations.[77]

In his annual message, January 7, 1857, Governor J. Neely Johnson speaks of the finances of the state in these words:

> At no former period of our history has the time existed when the subject of state indebtedness attracted such universal attention as at the present moment, and a like degree of solicitude been manifested in the public mind, regarding the policy which the present legislature will pursue in relation to this important matter.
>
> An examination of our financial condition irresistibly forces upon us the conviction that we have been progressing rapidly towards a condition of bankruptcy and ruin, and seemingly without making an effort to arrest the downward progress of events. From year to year the expenditures have increased far in advance of the receipts, and we have been content with issuing bonds to supply the deficit without inquiring whether such bonds were valid. True, at times the illegality of such acts was questioned and doubted, yet those doubts and inquiries were permitted to slumber, until there had been sent forth in the money markets of the world, millions of our securities, when the startling discovery is made, that such obligations are unauthorized, and the people of the state are not responsible for their payment.

[77] Statement showing the state debt, as of January 1, 1857 (*Assembly Journal*, 8th Sess., p. 27):

Three per cent bonds (probably lost)	$6,088.95	
Bonds of 1851, due in 1860	150,000.00	
Bonds of 1852, due in 1870	1,389,600.00	
Bonds of 1855, due in 1870	700,000.00	
Bonds of 1856, due in 1875	984,000.00	
Total amount of funded civil debt		$3,229,688.95
Outstanding controller's warrants (including the state prison warrants, $175,367,34, the payment of which had been prohibited)	404,447.12	
Warrants to be drawn for salaries accrued	24,374.60	
Balance of war debt not assumed by general govment	218,020.91	
School fund debt	467,000.00	
		1,113,842.63
		$4,343,531.58
Less cash in treasury		212,404.27
Total		$4,131,127.31

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23. The Funding Act of April 28, 1857

The governor advocated the payment of the state debt. On April 28, 1857, he approved an act[78] to provide for the payment of certain equitable claims against the state of California and to contract a funded debt for that purpose. The important sections of this act read as follows:

Section 1. For the purpose of liquidating, funding and paying the claims against the state of California, hereinafter specified, the treasurer of state shall cause to be prepared suitable bonds of the state of California, not to exceed the sum of three millions nine hundred thousand dollars, bearing interest at the rate of seven per cent per annum from the date of their issue, payable at the state treasurer's office on the first day of July, one thousand eight hundred and seventy-seven. The interest accruing on said bonds shall be due and payable at the office of the treasurer of state, on the first day of January and July of each year. Provided, that the first payment of interest shall be made before the first day of January, one thousand eight hundred and fifty-nine. Said bonds shall be signed by the governor and countersigned by the controller, and indorsed by the treasurer of state, and shall have the seal of the state affixed thereto.

Section 2 provided that interest coupons were to be attached to the bonds; Section 3, that the treasurer and controller should keep a separate record of the bonds issued. Section 4 appropriated one thousand dollars to pay the expenses of preparing the bonds.

Section 5 read:

All persons having any claims against the state of California entitled to be funded as hereinafter specified, shall, upon the presentation of the same to the treasurer of state, receive in exchange therefor a bond or bonds of the state of California, provided for in the first section of this act; but no bond shall be issued for a less sum than five hundred dollars, nor for fractional parts of a hundred dollars, but the treasurer may issue certificates of such fractional parts not bonded, which said certificates shall be transferable, and entitled to be funded as before provided. The treasurer shall indorse on the back of each claim so received and liquidated, the date on which he received the same, and from whom, and the number of the bond issued in exchange therefor, and such claim shall be filed in the office of the secretary of state.

Section 6 read, in part:

For the payment within twenty years of the principal and interest of the bonds issued under this act, there shall be levied, annually, until the bonds are paid, and promptly collected in the same manner as is

[78] *Statutes of California*, 1857, pp. 300–303.

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or may be provided by law for ordinary state taxes, a tax of thirty cents on each one hundred dollars of the assessed value of real and personal property in the state, and the fund derived from this tax shall be set apart and applied exclusively to the payment of the interest on the bonds herein provided, and the final redemption of the principal of said bonds; and the faith of the state of California is hereby pledged for the payment, as herein provided, of the bonds issued by virtue of this act, and the interest thereon.

Section 7 read:

Whenever, on the first day of January or July in any year, there remains, after the payment of the interest, as hereinbefore provided, a surplus of ten thousand dollars or more, it shall be the duty of the treasurer to advertise for the space of one week in one daily newspaper, published in English in the city of New York, and for one month in one daily newspaper published in English at the state capital, for sealed proposals to be opened one month after the expiration of such publications by the treasurer, in presence of the governor or controller, at the state capitol, for the surrender of bonds issued under this act, which advertisement shall state the amount of money he has on hand for the purpose of redemption, and they shall accept the lowest proposals at rates not exceeding par value, as may redeem the greatest amount of bonds until the amount of cash on hand for the redemption is exhausted. Provided, however, in case a sufficient amount of such bonds shall not be offered as aforesaid, to exhaust the sinking fund to a less amount than ten thousand dollars, then it is hereby made the duty of the treasurer to advertise in two newspapers, one in New York, and one at the capital of this state, for three months, which advertisement shall state the amount in the sinking fund, and the number of bonds, numbering them in the order of their issuance, which such fund is set apart to pay and discharge, and if such bonds so numbered in such advertisements shall not be presented for payment and cancellation within three months from the expiration of such publication, then such fund shall remain in the treasury to discharge such bonds whenever presented, but they shall draw no interest after such publication, as last aforesaid.

Section 8 required the treasurer to keep on record all proceedings under the act and render an annual report to the governor.

Section 9 read:

It shall be the duty of the treasurer to pay the interest on said bonds, when the same falls due, out of said interest fund, if sufficient; and if said fund be not sufficient, then to pay the deficiency out of the general fund. Provided, that the controller of state shall first draw his warrant on the treasurer, payable to the order of the said treasurer, for the amount of interest money about to become due, which said

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interest warrant shall be drawn at least one month previous to the maturing of the interest.

Section 10 required the governor and the controller to attend at least once a week at the treasurer's office, to examine with the treasurer all bonds and claims presented, to register and cancel them so as to prevent them from being again put into circulation.

Section 11 read:

The following are specified as claims which are entitled to be received and funded under this act:

First. Civil bonds of the state issued under the funding acts passed in the years 1851, 1852, 1853, 1855 and 1856, which are now outstanding, with interest due on the same, when presented as appears by the coupons.

Second. Controller's warrants, drawn under sanction of law, for civil expenses, prior to January first, A.D., 1857, and now outstanding and unpaid. But the provisions of this act shall not authorize the funding of any of those warrants, the registration and indorsement of which were canceled or required to be canceled by the provisions of "An Act to cancel the registration and indorsement of certain warrants, and prohibiting the payment of the same," approved January 30th, A.D., 1856, or warrants which have been specifically adjudged illegal by any court. . . .

Third. Just or legal claims against the state, accrued prior to January 1st, 1857, and which may be allowed and audited by act of the legislature.

Section 12 required that all claims to be funded under this act, had to be presented on or before January 1, 1857.

Section 13 provided that the act, in case that the people approved it, should go into effect on the first day of November, 1857.

Section 14 provided that the act should be submitted to the people for their ratification at the next general election, namely, Wednesday, September 1, 1857. On the ballots were to appear the words, "Pay the Debt" and "Repudiate the Debt."

At the election mentioned, 57,661 votes were cast in favor of paying the debt and 16,970 in favor of repudiation.

24. Stamp Duties

In 1857 the legislature made many changes in the revenue laws. All of these except one, the so-called stamp act, have been

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considered in the preceeding pages. An act[79] of April 29, 1857, levied on and after July 1, 1857, the following stamp duty:

On every sheet or piece of paper, or parchment, or other material upon which may be written, printed, engraved or lithographed, any or either of the instruments following, to wit: Any bill of exchange, draft or order, certificate or other written evidence of deposit, whether negotiable or otherwise, or letter of credit to any person or persons, and payable out of this state, if above twenty dollars, and not exceeding fifty dollars, eight cents; if above fifty, and not exceeding one hundred dollars, twenty cents; if above one hundred, and not exceding one hundred and fifty dollars, thirty cents; if above one hundred and fifty, and not exceeding two hundred dollars, forty cents; if above two hundred and not exceeding three hundred dollars, sixty cents; if above three hundred, and not exceeding four hundred dollars, eighty cents; if above four hundred, and not exceeding five hundred dollars, one dollar; if above five hundred dollars, and not exceeding seven hundred and fifty dollars, one dollar and forty cents; if above seven hundred and fifty, and not exceeding one thousand dollars, two dollars; if above one thousand, and not exceeding fifteen hundred dollars, three dollars; if above fifteen hundred, and not exceeding two thousand dollars, four dollars; if above two thousand, and not exceeding three thousand dollars, six dollars; if above three thousand, and not exceeding four thousand dollars, eight dollars; if above four thousand, and not exceeding five thousand dollars, ten dollars; if above five thousand, and not exceeding seven thousand dollars, fourteen dollars; if above seven thousand, and not exceeding ten thousand dollars, twenty dollars; if above ten thousand, and not exceeding fifteen thousand dollars, thirty dollars; if above fifteen thousand, and not exceeding twenty thousand dollars, thirty-eight dollars; if above twenty thousand, and not exceeding thirty thousand dollars, fifty-six dollars; if above thirty thousand, and not exceeding fifty thousand dollars, ninety dollars; if above fifty thousand, and not exceeding one hundred thousand dollars, one hundred and seventy-five dollars; if above one hundred thousand dollars, two hundred dollars.

The stamp duty on insurance policies was one half as much as on bills of exchange. A license or certificate to practice law was taxed ten dollars. Any receipt for the payment of money for, or any contract, certificate or memorandum, relative to the purchase of passage from this state to any place outside the state, or from any place out of this state to another place out of the limits thereof, upon any vessel or steamship was taxed six dollars if for first-class passage; four dollars for second, and two dollars for steerage.

[79] *Statutes of California*, 1857, p. 304.

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The stamped paper could be secured from the state controller or from the county treasurers. If from the former, a discount of eight per cent was allowed on all purchases aggregating fifty dollars or more. At the end of each month the controller had to report the receipts from this source to the commissioners of stamp duties—the governor, the state treasurer and the secretary of state.

To simplify the administration of the law, the rates were changed by an act of April 26, 1858, on bills of exchange and insurance policies. Instead of the comprehensive graduated scale of rates, the amendment levied a tax of thirty cents on all instruments (enumerated above) if their value did not exceed one hundred dollars; and one-fifth of one per cent of their value if it exceeded one hundred dollars.

The duty on every insurance policy which was to run for a year or more was one-half as much as on bills of exchange; if for nine months and not more than twelve months, three-fourths of the rates last above established; if for six months and not over nine months, one-half of the above last-established rates; if for three months and not over six months, one-fourth of the above last-established rates.[80]

25. Receipts and Expenditures, 1856–1860

The eighth fiscal year (1856–1857) marks a turning-point in California's financial situation. For 1856, the total receipts amounted to $723,289.83; for 1857, $799,795.90. During the former year, the state expended $1,368,684.81; during the latter, $719,103.50. On June 30, 1856, the deficit in the state treasury amounted to $645,394.89, while on June 30, 1857, there was a surplus of $80,692.40. This happy condition was achieved primarily by reducing the disbursements. The reduction of expenditures was not confined to one department of the state government. The legislative expenses were reduced from $345,896.85 in 1856, to $168,971.15 in 1857; the administrative expenses from $96,662.04 to $55,112.30; the judicial and legal expenses from $128,246.22 to $85,994.17; the printing expenses from

[80] The total state receipts from the stamp tax from July 1, 1857, to December 15, 1858, amounted to $168,158.30; from December 16, 1858, to December 15, 1859, to $144,263.28.

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$129,837.95 to $56,653.02; the prison expenses from $411,246.14 to $113,192.66; the hospital expenses from $56,609.97 to $5,760.88 and the expenses for care of the insane from $87,083.66 to $81,983.64. For 1858, the surplus in the state treasury amounted to $222,575.26. This surplus was not the result of a further reduction in the expenditures, but of the increase in the receipts. During the year, the total expenditures aggregated $992,553.35, while the total receipts aggregated $1,215,128.61 or $415,332.71 more than for 1857. The state receipts for 1859 amounted to $1,184,221.79 and the expenditures to $1,109,143.20.

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CHAPTER III

THE FINANCIAL PROBLEMS OF CALIFORNIA FROM 1860 TO 1872

1. Introduction

California, in spite of her financial difficulties and vicissitudes, could point in 1860 to a decade of rapid growth and development. Her population, estimated at 92,597 in 1850, had increased to 379,994 in 1860. The valuation of the taxable property had increased from $57,670,689 in 1850 to $148,193,540.02 in 1860; the state receipts from $330,796.45, for the second fiscal year closing June 30, 1850, to 1,198,581.81 for the fiscal year closing June 30, 1860; and the state expenditures from $585,702.83 to $1,165,717.95 respectively. However, we must not conclude from these figures that the legislature from 1860 to 1872 was not called upon to solve political, legislative, and financial problems. The people of the southern part of the state had approved the act of April 18, 1859, granting them permission to establish a territorial or state government. Governor Latham, in communicating this action to President Buchanan, unqualifiedly opposed state division. The failure of Congress to approve the act of the California legislature defeated the hopes of the state divisionists. Before the question of state division was finally settled many began to espouse the cause of the Confederate States. However, the majority of the local secessionists did not think it prudent to join the southern states but advocated the establishment of a "Republic of the Pacific." Not until the election of Leland Stanford as governor was this idea entirely abandoned and the cause of the Union heartily supported.

2. The Legislature of 1860

In 1859 the legislature was informed that all the bonds authorized by the act of 1857 had been sold, and that at least

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$143,485.48 of the state debt which had been illegally incurred remained unfunded or unpaid. In 1860 this matter was again put before the legislature, which, because of the exhaustion of the general fund, and the small amount of money in the treasury, passed another funding bill. This bill, approved by the governor on April 30, and ratified by the people at the following general election, authorized the state treasurer to issue and sell not more than $200,000 worth of seven per cent state bonds. Under this act which, excepting the provision limiting the amount of bonds to be sold to $200,000, was a re-enactment of the funding act of 1857, $198,500 worth of state bonds were sold.[1]

In 1859 the legislature amended the revenue law of 1857. The amendments, applying only to the City and County of San Francisco, were not changed by the revenue act of April 30, 1860.[2] Nothing in the act of 1860 was to be construed so as to repeal or modify the revenue laws in force in the City and County of San Francisco, except the section levying the state rate of taxation; nor the tax on consigned goods, nor the passenger broker's license tax, nor the tax on inland and foreign bills of exchange levied by an act of April 29, 1858, and its amendments. The most

[1] According to the report of the state treasurer, the following claims were received and funded:

Civil Bonds issued under act of April 29, 1851	$4,500.00
Civil Bonds issued under acts of 1852–1853	54,000.00
Civil Bonds issued under act of March 16, 1855	16,000.00
Civil Bonds issued under act of April 19, 1856	11,500.00
Three bonds redeemed under the act of April 24, 1861, but were not entered on the books of the department	1,500.00
Interest on all of the above bonds as appeared by the coupons presented	25,626.56
Controller's warrants	4,977.03
Claims audited by the legislature of 1858	1,993.70
Claims audited by the legislature of 1859	12,646.65
Claims audited by the legislature of 1860	10,812.51
Claims audited by the legislature of 1861	31,463.09
Certificates of balance issued by R. Roman, treasurer	1.30
Certificates of balance issued by S. A. McMeans, treasurer	425.00
Certificates of balance issued by Henry Bates, treasurer	344.03
Certificates of balance issued by Thomas Findley, treasurer	23,016.46
Total	198,806.33
Amount of certificates deducted	306.33
Total amount of bonds issued	$198,500.00

[2] *Statutes of California*, 1860, p. 401.

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important change proposed by the law of 1860 was the substitution of the township for the county as a political unit for the administration of revenue laws.

3. The General Property Tax

a. The Base

Before the law of 1860 went into effect it was superseded by another, approved May 17, 1861. This act repealed the acts of May 15, 1854, April 29, 1857, and April 30, 1860, and the amendments and supplementary acts thereto, except those sections of the act of May 15, 1854, referring to the tax on consigned goods; those sections of the act of April 29, 1857, referring to auction duties and auctioneers' licenses, and the amendments of April 19, 1859, to the act of April 29, 1857, so far as they applied to the City and County of San Francisco. The act of April 29, 1858, and its amendments, levying stamp duties on "foreign and inland bills" was likewise not repealed. Section 115 provided that no provisions of the act of May 17, 1861, should apply to the City and County of San Francisco, except such as were concerned with the state tax rate, the poll tax, the amount of license taxes for state and county purposes, the exemption of property from taxation, the time and manner of reporting to and settling with the controller of state, and the sale of agricultural products.

Real estate was defined to mean "the ownership of property, or claim to, or possession of, or right of possession to any land within the state."[3] With a few minor exceptions, the legislature reincorporated in the revenue laws of 1861[4] the definition of personal property as found in the act of 1857.

b. Exemptions

The revenue act of April 30, 1860, exempted a large list of property, but since the act never went into operation it is not necessary to enumerate these exemptions. Furthermore, all were

[3] *Statutes of California*, 1861, p. 421.
[4] *Ibid.*, 1861, pp. 421–422.

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included in the act of May 17, 1861, which added to the list of property exempt from taxation. This act[5] exempted from taxation the following property:

First. All lands and lots of ground with buildings, improvements, and structures, thereon, belonging to the state, or any municipal corporation, or to any county of the state; and all lands belonging to the United States, or to this state; and all buildings and improvements belonging to the United States, or to this state.

Second. Court-houses, jails, town halls, council chambers, houses occupied by fire companies, and their apparatus; and other public structures and edifices; and all squares and lots kept open for health, or public use, or for ornament, belonging to any county, city, town, or village, in this state; public libraries, colleges, school-houses, and other buildings, for the purpose of education, with their furniture, libraries, and all other equipments, and the lots, or lands, thereto appurtenant and used therewith, so long as the same shall be used for that purpose; *provided*, that when any property mentioned in this subdivision is private property, from which a rent, or other valuable consideration is received for its use, the same shall be taxed, as other property.

Third. Public hospitals, asylums, poor-houses, and other charitable, or benevolent, institutions, for the relief of the indigent, or afflicted, and the lots, or lands, thereto appurtenant, with all their furniture and equipments; all grounds and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

Fourth. Churches, chapels, and other buildings, for religious worship, with their furniture and equipments, and the lots of ground appurtenant thereto and used therewith; *provided*, rent is not paid for such ground, so long as the same shall be used for such purposes only without yielding rent.

Fifth. The buildings and lots of ground appurtenant thereto, and used therewith, owned and used by the order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by any benevolent, or charitable, society, except such buildings and lots of ground as are owned in connection with individual owners, then only to the extent owned by such orders, or societies.

Sixth. The property of the Society of California Pioneers, and the halls and appurtenances belonging to, and used exclusively by, Turn-Verein associations, when not rented for profit.

Seventh. Cemeteries and grave-yards, set apart and used for the purpose of interring the dead.

Eighth. The property of widows, or orphan children, not to exceed the amount of one thousand dollars to any one family.

Ninth. Growing crops.

[5] *Statutes of California*, 1861, pp. 420–421.

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Tenth. Mining claims; *provided*, that all machinery used in mining claims, and all property and improvements appurtenant to, or upon, mining claims, which have an independent and separate value, shall be subject to taxation.

Eleventh. No property belonging to any person who has arrived across the plains, for the first time, after the first day of July in anv year, shall be assessed in the same year, unless such property exceed one thousand dollars in value, and in case it does exceed such sum, then only the excess above that sum shall be assessed to such person.

Before the approval of the law of 1861, popular opinion was beginning to question the policy and power of the legislature to exempt property from taxation. In 1860 the representatives from the agricultural and commercial sections of the state succeeded in passing an act which subjected improvements on mining claims to taxation. An act of April 4, 1864, repealed all provisions of the law exempting from taxation mining claims[6] whose status was that of private property granted by Spanish or Mexican grants, or by the government of the United States or by the state. The act of May 17, 1861, was amended by an act of April 2, 1866. This amendment subjected to taxation the property of widows and orphans, of the California Pioneer Society, of turn-verein associations; of persons arriving across the plains for the first time, after July first of any year; all real estate owned by churches and religious denominations except such as is occupied by the building and adjoining land not to exceed fifteen feet on each side of the building; all cemeteries, except rural, incorporated under the act of April 18, 1859. On March 22, 1866, the governor approved an act which required the assessor to value all property exempt from taxation except such property as belonged to the United States, to the state of California, or to any county, city, or town of the state of California.

[6] The taxation of mining claims and mining properties had been a source of contention since 1850. Prior to 1860, the mining counties controlled the state legislature. The commercial and agricultural counties were unable to act in unison, until after the mining counties had freed themselves from taxation to a very great extent. In 1861 the commercial and agricultural counties, with a voting population at the last election of 58,933, paid $444,913.95 for the support of the state government, while the mining counties, with a voting population of 60,797, paid only $168,425.26. (Figures from *San Francisco Bulletin*, January 14, 1862).

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For the year 1867, the assessors valued such exempted property at $7,764,714.60[7]

In 1867–68 the Supreme Court of California[8] declared the provisions of the act of April 2, 1866, exempting certain property from taxation, unconstitutional, so far as private property was concerned. On March 30, 1868, section four of the act of May 17, 1861, referring to the exemption of property from taxation, was amended so as to read "All property of every kind, name and nature whatsoever within this state shall be subject to taxation.[9]

c. Assessment of Property

The acts of 1860 and 1861 did not change the underlying principle of assessment. As stated before, the proposed act of

[7] This valuation does not include any returns from the following counties: Butte, Calaveras, Colusa, Contra Costa, Del Norte, Fresno, Inyo, Kern, Mono, Plumas, Sacramento, San Bernardino, San Luis Obispo, Santa Barbara, Stanislaus, and Yolo. We have not been able to find any report from these counties. The following table shows the kind and amount of property exempt from taxation for the year 1867 (Report of the Controller of State, 1865–6, 1866–7; pp. 170–173):

Public libraries	$57,250.00
Hospitals	127,970.00
Church property	1,436,291.00
Rural cemeteries	62,800.00
Public schools	210,037.10
Masonic halls	87,802.00
Odd-fellows' halls	106,267.00
Growing crops	1,574,825.50
Mining claims	2,233,300.00
U. S. bonds	60,400.00
Engine houses and public charities	143,060.00
Miscellaneous exemptions	1,664,712.00
Total	$7,764,714.60

[8] *People v. McCreery*, 34 Cal. 432. This was an action brought by the state to recover $8,164.50 from defendant as taxes on money ($125,000) loaned to James Lick. The defendant set up the defense—among others—that the revenue law "contravenes the constitutional requirements of equality, uniformity and universality."

The court, in coming to its conclusion, attempted to discover the intention of the framers of the constitution. The phrase "taxation shall be equal and uniform" had been taken from the constitution of Texas, which, however, contained the proviso that two-thirds of both houses of the legislature could exempt property from taxation. This proviso, the court held, was wilfully and intentionally omitted by the framers of our state constitution. Because of this omission, the delegates to the constitutional convention restricted the power of the legislature. The court interpreted section 13, article II (referring to taxation) as a limitation, and not a grant of power, and as such was mandatory on the legislature.

[9] *Statutes of California*, 1867–68, p. 674.

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1861 substituted township or district assessors fo
sessors. Under the law of 1861 the duties of the a
increased. The assessment roll had to show the follo

1. The taxpayers names, arranged alphabetically.
2. The description of the real property, the numbe
the range, the block, and the lot numbers.
3. The cash value of the real estate and improven
4. The cash value of all improvements on the re
where the same was assessed to a person other than th
of the real estate.
5. The cash value of the personal property, except i
ments on real estate or public lands.
6. The total value of all the taxable property.
7. The number of persons subject to perform military
8. The names of persons liable to pay a road poll tax.
9. The names of persons liable to pay a state road poll ta

As heretofore, the property was assessed between the
Monday in March and the first Monday in August. If
owner of any property refused to answer any of the assesso
questions pertinent to ascertaining the value of the property, t
assessor had to estimate its value. This estimate could not
changed by the board of equalization. An act[10] of March 1
1866, required the county, township, and district assessors, at the
time of making their annual assessment, to collect data and make
a complete statement, exhibiting the agricultural and industrial
products of the several counties, townships, and districts of the
state and any other information required by the surveyor-general
of the state, to whom the report was to be made each year, be-
tween the first day of September and the first day of November.

d. *Equalization of Assessment*

The constitutional provision that "taxation shall be equal and uniform," the legal mandate that property shall be assessed at its full cash value, were being more and more ignored by the county assessors in their endeavor to curry favor with their constituents and to roll a portion of the state tax on to some other counties. This practise was carried to such a degree that State

[10] *Statutes of California*, 1865–66, p. 201.

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Controller George Oulton, in his report for the seventeenth and eighteenth fiscal years, stated that real estate in some counties was assessed at one-third or one-fourth its value, while in one county (not mentioned) the county board of equalization reduced the assessment fifty per cent in order to escape its share of the state tax. To prevent the future recurrence of such illegal acts, the controller recommended the creation of a state board of equalization with advisory and supervisorial power. Because of the added expense, he favored an ex-officio board, composed of the governor, the state controller, or the state treasurer, and the attorney-general. He also recommended that the state tax rate should not be determined until the assessment roll was completed.

Two years later State Controller Watt questioned the advisability of a state board of equalization. In his judgment, an ex-officio board was of little value, while a state board of equalization modeled after that of Ohio—two members from each senatorial district—would be too expensive. Moreover, he argued that a state board could not remedy the existing inequalities in the assessment of property. All it could do was to raise or lower the assessments of the counties, while in many instances property was assessed on the basis of income. Frequently land held at $100 and $150 an acre, he said, was assessed at but ten per cent of its value, since it yielded no income to the owner. Often remote lands escaped taxation entirely. Such inequalities could be corrected, in his opinion, only by a county board of equalization, which should not be allowed to reduce the aggregate assessment but only to equalize it. The controller's views did not, however, coincide with those of Governor H. H. Haight, who strongly advocated in his message of 1869 the establishment of a state board of equalization. In accordance with the governor's recommendation, the legislature passed a bill,[11] approved April 4, 1870, creating a state board of equalization composed of the state controller and two members to be appointed by the governor for a term of four years. The appointed members were subject to recall by the governor. The law defined

[11] *Statutes of California,* 1869–1870, pp. 714–715.

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the powers and duties of the state board of equalization as follows:

1. To investigate the mode and manner in which assessors and tax collectors perform their duties.

2. To discover whether the assessments made by the county assessors are equal and uniform, according to location, soil, improvements, productions and manufacture.

3. To equalize assessments by adding to or deducting from the valuation of taxable property in any county or counties, such a per cent as would produce relatively equal and uniform valuations between the several counties of the state.

4. To devise rules by which the county boards of supervisors were to be governed, when sitting as county boards of equalization.

This board will be referred to as the first state board of equalization, to distinguish it from the second, established by the code of 1872, and the third, established by the constitution of 1879.

The report of the first state board of equalization, even if not final, is one of the most illuminating reports in California's fiscal-documentary history. The powers of the board were limited, but the members thereof set to their task with a zeal not to be overcome by indifferent assessors or antagonistic boards of supervisors. One of the first official acts of the board of equalization was the sending of a circular letter to the county assessors asking them for a copy of the assessment roll and requesting them to fill out certain blanks containing a schedule of different classes of personal property. In addition, the board submitted the following questions to the assessors:

First. Do you adopt any general rule for assessment of different kinds of property, as for example: assessing real property at a greater or less per centum below its full cash value than personalty? If so, state it, why adopted, and the difference of per centum.

Second. Is real estate in your county assessed at its full cash value; and if not, state at what proportion to its real value?

Third. Is personal property in your county assessed at its full cash value? If not, state at what per centum of its full cash value. Do you assess money, bonds, notes, solvent debts, accounts, etc., below their face; if so, what is the percentage of reduction, and what is the proportion which their assessed value bears to the total assessment of per-

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sonalty? State also the proportion which all undervalued personalty bears to the total personalty assessment. How much money in hand is returned as assessed on your assessment roll?

Fourth. To what extent would the assessment roll of your county be augmented by assessing all property at its full cash value?

Fifth. State whether the persons assessed are uniformly sworn at the time of assessing, and if so, whether before or after the statement required by law is made.

Sixth. What is the basis on which the several classes of live-stock are assessed, as according to age, quality, grade, breed, etc.?

Seventh. Are the lands in your county susceptible of being classified according to soil, location, capacity of production, adaptability to special crops, etc.; if so, what would you suggest as the most convenient and useful classification?

Eighth. State whether, in assessing lands, any additional value is put on them by reason of their special use, or having thereon orchards, vineyards, or any other species of growth, or whether they are valued at the same rate as contiguous lands not so employed, but of equal quality of soil, etc.

Ninth. Many tracts of land, used for agriculture or grazing purposes, have a value above that indicated by their use; from the fact that they are situated near, and are available for the future growth of towns or cities, they are held at advanced values above that of contiguous lands not so available, but likewise used for agricultural or grazing purposes. Do you assess such first described lands at their true full value, which could be obtained for them, or only as agricultural or grazing lands?

Tenth. State whether the board of supervisors of your county has ever made a general reduction of the assessed valuation of all the property in the county, or whether such board has instructed or suggested to you to make an assessment on a basis differing from that prescribed by law, to wit: at the full cash value?

The assessors of nineteen of the counties[12] of the state failed to make any reply to these questions. Only the assessors of Colusa, Lassen, Mariposa, Merced, Napa, Plumas, Sacramento, and Yolo counties submitted a copy of the assessment roll to the state board of equalization. The failure of some of the assessors to respond to the wishes of the state board of equalization compelled the board to adopt some other means of ascertaining how property was being assessed. First, it decided to call a state convention of assessors to meet September 12, 1870, at Sacramento. Though

[12] The assessors of the following counties failed to answer the letter: Butte, El Dorado, Fresno, Humboldt, Los Angeles, Mariposa, Nevada, Placer, San Francisco, San Mateo, Santa Barbara, Santa Cruz, Shasta, Siskiyou, Solano, Sutter, Tehama, Tuolumne, and Yuba.

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only fourteen county assessors attended the convention,[13] some valuable results were obtained. "It led to an interchange of opinion among assessors, developed the fact, and made it known to assessors, of the want of system and uniformity of assessment, and consequent inequality in the relation which each county bears to the other in the burden of state taxation; fixed the meaning of 'full cash value' as a guide for the future and secured, it is hoped, the sympathy and co-operation of its members with the labors and designs of the 'Board of Equalization.' "[14]

After the adjournment of the convention, the board concluded to visit the different counties of the state. The members of the state board of equalization were determined to make a personal investigation of the administration of the revenue laws, to discover how the assessors interpreted "full cash value;" to determine what kind and how much property escaped assessment; to find out for what reasons county boards of equalization reduced the valuation of property; to ascertain why there was such a great difference in the valuation of real estate and personal property; and to advise and instruct the assessors.

The facts discovered revealed a chaotic state of affairs, which justified the establishment of a state board of equalization. Land was being assessed on the basis of use rather than value. Land worth $500 an acre was often assessed at $20; land worth $40 an acre often at $3.00, while in the poorer counties, because of their fiscal needs, land was often assessed at nearly its cash value. Assessors either failed to assess possessory claims or, if they did assess them, did so at a low valuation. Merchandise, wares, goods, and small articles of personal property, frequently escaped taxation entirely. Live-stock was under-assessed. The tax collectors required by law to accompany the assessor and collect the tax on personal property not secured by real estate, very often assigned this work to the assessors. County boards

[13] The following assessors attended the convention: Messrs. Covell of San Joaquin county, Phelps of Santa Clara, Gordon of Sonoma, Taylor of Santa Cruz, Hungerford of Sutter, Larrien of Sierra, Smith of San Diego, Dray of Sacramento, Rosener of San Francisco, Hinds of Plumas, Dorsey of Nevada, Arnold of Napa, Ammons of Yolo, and Surface of Amador.

[14] *Report of State Board of Equalization*, 1870–71, p. 5.

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of equalization when possible reduced the valuation[15] as returned by the assessor, and then, as a board of supervisors, raised the county tax rate, thereby reducing the amount of taxes paid to the state.

According to the report of the assessors, the percentage of full cash value at which real estate was assessed varied from thirty-three and one-third to one hundred; while in the case of personal property the percentage varied from fifty to one hundred. The state board of equalization, however, estimated that in San Mateo County both real and personal property were assessed at fifteen per cent of their cash value, while in several of the mining counties property was assessed at eighty per cent of its cash value. The board concluded that if the property in the state had been assessed at its full cash value, the total valuation for the year for the purpose of taxation would have been $660,000,000 instead of $277,538,135. The state board of equalization was unable to correct the inequalities in assessment because some assessors and boards of supervisors neglected or refused to send in the assessment roll of their counties at the proper time. The investigations conducted by the members of the board emphasized the necessity for a revised revenue law which would clearly and specifically define the duties of officials who were called upon to enforce it; for some central administrative body, with power and authority to supervise the assessment of property and the collection of taxes; and for demanding that the county boards of equalization equalize the assessment within the counties before the state board attempted to equalize the valuation among the different counties.

e. The State Rate of Taxation

From 1860 to 1865 the state tax rate increased rapidly. The increase was in part caused by the Civil War and in part by railroad subsidies. For 1860 and 1861 the state rate of taxation was

[15] The county board of equalization of San Mateo County reduced the valuation of property from $4,301,196 to $1,897,200, whereby the state was deprived of $20,795. Reductions were made in 1,233 instances; of this number only nineteen made personal application for a reduction, thirty-seven applied through five attorneys. Out of the fifty-six applying for a reduction, thirty-five gave no reason except that the assessment was higher than last year, etc.

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sixty cents on every one hundred dollars worth of taxable property. In 1862 it rose to seventy-two cents; in 1863 to ninety-two cents; in 1864, to one dollar and twenty-five cents. The following year it decreased to one dollar and fifteen cents, while for 1866 and 1867 the rate was one dollar and thirteen cents. For 1868, the state rate was one dollar; for 1869, ninety-seven cents; for 1870, and 1871, eighty-six and one-half cents. The following table shows the apportionment of the rate for the last four years just mentioned:

	Act of Nov. 30, 1868		Act of April 4, 1870	
Fund	20th Fiscal year, 1868-69	21st Fiscal year, 1869-70	22nd Fiscal year, 1870-71	23rd Fiscal year, 1871-72
To interest and sinking fund 1857	$0.30	$0.30	$0.15	$0.15
To interest and sinking fund 1860	0.0025	0.0125	0.0125	0.0125
To soldier's relief, interest and sinking fund	0.04	0.04	0.04	0.04
To soldier's bounty, interest and sinking fund	0.12	0.12	0.02	0.02
To capitol fund	0.10	0.10	0.10	0.10
To school fund	0.08	0.08	0.10	0.10
To Pacific R. R. fund	0.08	0.08	0.08	0.08
To state prison building fund	0.03	—	0.03	0.03
To general fund	0.2250	0.2250	0.2850	0.2850
To military fund	0.0125	0.0125	0.0125	0.0125
To normal school building fund	—	—	0.02	0.02
	—	—	—	—
	1.00	0.97	0.85[16]	0.85[16]

f. Collection

The law of 1861 required the tax collector to accompany the assessor and collect the taxes due on unsecured personal property, unless otherwise ordered by the county board of supervisors. Under this act the tax collectors were allowed the following fees: six per cent on the first $10,000 collected; four per cent on all sums between the $10,000 and $20,000; three per cent on all sums between $20,000 and $50,000, and two per cent on

[16] The controller reported the state tax rate for 1870 and 1871 at $.865 on every one hundred dollars worth of taxable property. The difference here is due to the one and one-half cent tax levied by the state capitol bond act of April 4, 1870.

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all sums above $50,000. The county treasurer was allowed three per cent on all moneys disbursed by him. In counties where the officials were on a salary basis, the fees were to be paid into the county treasury.

The fee system was proving to be an expensive method of collecting the state taxes. Governor Downey, in his message to the legislature in 1861, favored the abolition of this extravagant system and advocated the payment of salaries to all officers. This had been done in the City and County of San Francisco and the expenses for assessing and collecting taxes reduced fifty per cent. In his annual message of 1862, the governor stated that the cost of collecting taxes did not fall far short of twenty per cent, while in his opinion it should not exceed fifteen per cent of the total amount collected. In several counties the clerk, the sheriff, and the tax collector each received $10,000 to $30,000 as compensation for their services. In many instances the fees allowed to the county officials absorbed one-fifth of the money paid by the taxpayers. In 1867 Controller George Oulton stated in his biennial report that the state expended about twenty per cent of the receipts from the property tax, for paying the county assessors, auditors, tax collectors and treasurers. This charge, he thought, could be reduced fifty per cent, if the legislature would create a state board of equalization and revise the revenue laws. In spite of the controller's recommendations the establishment of the state board of equalization was postponed until 1870, as we have seen, and the revision of the revenue laws until 1872, as we shall see later.

g. Enforcement

The act of 1861 introduced a radical change in the method of enforcing the collection of taxes. It will be remembered that the act of 1857 made every tax a judgment against the person and a lien against the property assessed. The tax collector had to sell, after having observed the legal requirements, all property on which the taxes had not been paid. Under the law[17] of 1861, the tax collector had nothing to do with the collection of the delinquent tax, beyond the preparation of the delinquent list. After

[17] *Statutes of California*, 1861, pp. 430–435.

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its delivery to the county auditor on the first Monday in December, the auditor had to deliver it, within three days, to the district attorney of the county, and publish a notice in some newspaper printed in the county, if there was one, and if not he was required to post notices in three public places in the county that the delinquent list had been deposited with the district attorney, and that unless the delinquent taxes specified in the list were paid to the county treasurer within twenty days after the publication of the notice, the district attorney would bring an action to collect the taxes and costs. After the third Monday in November, and before the institution of a suit to recover the taxes due, the taxpayer might, upon a certificate from the county auditor, pay the delinquent taxes and penalties to the county treasurer. If the judgment rendered by the district court was in favor of the plaintiff, i.e., the state, it became a lien not only on the property assessed but on all real estate of the delinquent taxpayer, and was subject to execution the same as in other civil cases. The sheriff, in selling the property, could sell only so much of the land as was necessary to pay the judgment and costs. Any person desiring to redeem the property had to pay the sheriff the total amount of the judgment, and all costs plus thirty per cent, unless the redemption was made within three months from the date of the certificate of sale, when the penalty was but fifteen per cent. By an amendment[18] of March 31, 1866, the sheriff, if the taxes and costs exceeded $1,000, was allowed to sell fractional parts of the real estate, subject to taxation, under these two conditions: first, that he had once offered the real estate for sale at public auction but received no bid; second, he could make no sale for less than five hundred dollars until the amount of taxes due was below that sum.

The following table shows the valuation of property from 1860 to 1872 for purposes of taxation, the state tax rate, and the total receipts from the general property tax:

[18] *Statutes of California*, 1865–66, p. 607.

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Year	Assessed value of all property	State rate of taxation	State's portion of general property tax
1860	$148,193,540.02	0.60	$668.801.98
1861	147,811,617.16	0.60	727,880.84
1862	160,369,071.81	0.77	686,564.59
1863	174,104,955.07	0.92	878,131.11
1864	180,484,949.85	1.25	1,261,938.34
1865	183,509,161.00	1.15	1,641,831.11
1866	200,764,135.50	1.13	1,608,078.25
1867	212,205,339.01	1.13	1,807,694.54
1868	237,483,175.07	1.00	1,925,239.80
1869	260,563,886.08	0.97	1,933,222.26
1870	277,538,134.97	0.865	2,081,168.26
1871	267,868,126.76	0.865	1,994,853.94

4. The Poll Tax

Between 1860 and 1872, several poll-tax laws were enacted. An act of April 30, 1860, levied a poll tax of fifty cents on every male Indian over twenty-one years of age. The proceeds were paid into the county treasury and held as a separate fund for the relief of indigent Indians. Another act of the same date raised the regular $2.00 poll tax to $3.00 if it was not paid between the first Monday in March and the first Monday in August. The law allowed the collector 15 per cent of the $2.00 tax and 25 cents of the $1.00 delinquency penalty. The net proceeds were paid into the county treasury for the following purposes: 40 per cent of the $2.00 tax for the benefit of the state; 60 per cent for benefit of the county and seventy-five cents of the $1.00 penalty for the county school fund. The revenue law of May 17, 1861, did not introduce any changes, except that it exempted active members of fire companies. The act of April 12, 1862, levied a federal poll tax on every adult male over twenty-one years of age save Indians and United States volunteers. An act of February 10, 1864, levied a $2.00 state military poll tax on all able-bodied males between the ages of twenty-one and sixty, except Indians and United States volunteers. This act, as did the act of May 17, 1861, authorized the poll-tax collector to seize and sell, after giving an hour's notice, any personal property belonging to the person who refused to pay his poll tax. An act of April 2, 1866, repealed the military poll tax and levied for the support of the national guard a tax of five cents on the

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hundred dollars. In 1868 this tax was reduced to one and one-fourth cents.[19]

The enforcement of the state poll-tax law during the period under consideration was far from satisfactory from the point of view of the state officials. In 1860, Governor John W. Weller, in his annual message to the legislature, stated that out of 150,000 persons in San Francisco who were liable to pay poll tax, only 40,000 had complied with the law; that the City and County of San Francisco, with a voting population of 60,000 more than Siskiyou county, paid $2,911 less poll tax, and that more than one-half of the total poll-tax receipts were collected in seven counties: Butte, El Dorado, Nevada, Placer, Sacramento, Siskiyou and Tuolumne.[20]

In 1861 Governor Downey complained that from a voting population of 120,000 and an additional population of 50,000 liable, likewise, to the payment of poll tax, only $50,000 had been collected during the last fiscal year. The actual amount collected was, however, $61,822.89. In 1862 the poll-tax receipts amounted to $54,764.84; in 1863, to $85,221.02; in 1864, to $84,451.18; in 1865, to $65,014.00. The decline in 1865 influenced the sixteenth state legislature to propose the following constitutional amendment: "That no one shall be entitled to vote for a public officer of this state who has not paid all his poll taxes, the same to be fixed by the legislature and shall not be less than two nor more than five dollars." This amendment was not approved by the people. In 1866 the poll-tax receipts amounted to $83,200.90; in 1867, to $91,062.04; in 1868, to $85,487.19; in 1869, to $88,770.57; in 1870, to $85,704.10, and in 1871 to $89,257.94. In his report for 1871, the state controller declared that less than 76 per cent of the voting population paid their poll tax. The most serious aspect of the entire situation was

[19] Receipts from Military Poll Tax:

1860	$1,616.32	1864	$107,966.25
1861	1,912.12	1865	68,777.17
1862	442.91	1866	85,534.72
1863	4.12	1867	11,536.47
1868	$9.60		

[20] The fiscal needs of these counties, and the comparatively small amount of revenue they realized from the property tax, compelled them to enforce the poll-tax law.

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the gross inequality among the different counties. As shown by the table below, taken from the controllers' report, the percentage of poll-tax payers to the total number of voters in each county varied from 16.73 per cent in San Diego County to 168.5 per cent in Klamath County. In the City and County of San Francisco the percentage was 68.61; in Alameda County, 102.63 per cent; in Alpine, 159.91 per cent; in Santa Barbara, 25.03 per cent; in San Luis Obispo, 22 per cent; and so on, the average for the entire state being, in exact figures, 75.96 per cent.

Statement[21] Showing the Number of Poll Taxes Collected in the Several Counties, the Numbers of voters therein, and the Percentage of Poll-tax Payers to the Number of Voters:

Counties	No. of poll taxes collected	No. of voters	Per cent poll-tax payers to No. of voters
Alameda	4,168	4,060	102.63
Alpine	363	227	159.91
Amador	1,539	2,195	70.11
Butte	2,940	2,962	99.22
Calaveras	1,658	2,225	74.51
Colusa	959	1,412	67.92
Contra Costa	1,517	1,768	85.80
Del Norte	620	400	155.00
El Dorado	2,904	3,085	94.13
Fresno	556	729	76.27
Humboldt	1,231	1,744	70.58
Inyo	352	575	61.21
Kern	276	534	51.68
Klamath	679	401	168.50
Lake	512	794	64.48
Lassen	217	438	49.53
Los Angeles	1,475	3,498	42.18
Marin	843	1,237	68.15
Mariposa	1,081	1,216	88.89
Mendocino	1,714	1,808	94.80
Merced	330	590	56.00
Mono	129	201	64.12
Monterey	1,364	2,331	58.51
Napa	1,104	1,810	61.00
Nevada	3.870	4,689	82.53
Placer	3,276	3,028	108.33
Plumas	1,369	1,246	109.81
Sacramento	5,341	6,381	83.70
San Bernardino	343	938	36.35
Carried forward	42,730	52,522	81.35

[21] *Report of State Controller* for 1869–70, 1870–71; p. 121.

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Counties	No. of poll taxes collected	No. of voters	Per cent poll-tax payers to No. of voters
Brought forward	42,730	52,522	81.35
San Diego	215	1,285	16.73
San Francisco	17,149	24,995	68.61
San Joaquin	2,463	3,809	64.64
San Luis Obispo	252	1,149	22.00
San Mateo	805	1,575	51.11
Santa Barbara	371	1,482	25.03
Santa Clara	4,550	5,216	87.23
Santa Cruz	1,452	1,990	79.96
Shasta	1,009	1,283	78.62
Sierra	1,829	1,806	101.30
Siskiyou	1,756	1,973	89.00
Solano	2,043	4,062	50.30
Sonoma	3,979	4,393	90.57
Stanislaus	1,141	1,344	84.90
Sutter	811	1,294	62.67
Tehama	774	1,147	67.50
Trinity	811	851	95.30
Tulare	604	1,133	53.31
Tuolumne	1,661	1,985	83.68
Yolo	2,358	2,190	107.67
Yuba	2,476	2,617	91.12
Totals	91,239	120,101	75.96

5. License Taxes

The various license taxes mentioned in the preceeding chapter were, for the most part, continued until 1872. From year to year these taxes were modified, but the changes introduced were less frequent than during the first decade of the state's existence. The legislature during this period levied no new license taxes of any importance. It thus seems advisable to continue the discussion of the most important ones by considering first the license taxes imposed on foreigners, either directly or indirectly, such as the foreign miners' license tax, the passenger commutation tax, the passenger brokers' tax and the Chinese police tax; second, the license taxes levied on financial or quasi-financial institutions, such as the foreign miners' license tax, the passenger commutation third, the license taxes levied on amusements, such as caravans, circuses, theatres, serenaders, billiard tables and bowling alleys; fourth, the license taxes levied on merchants and retail liquor dealers.

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a. License Taxes on Foreigners

The revenue law of May 17, 1861, levied the same license tax ($4.00 per month) on foreign miners as did the law of 1856. It contained, however, a provision which declared that all foreigners who resided in a mining district and who had not taken the necessary steps to become, or were ineligible to become, citizens, were miners. Those persons who refused to pay the tax were reported by the collector to the road overseer who had to compel them to do a certain amount of work on the highways. The Chinese, feeling that the tax was primarily aimed at them, resented it. To test the law, Ah Pong, a Chinaman, refused to pay the tax or to work on the road. As a result he was sentenced for twenty days to the county jail. He appealed to the state supreme court which, in the case of *Ex Parte Ah Pong,* 19 Cal. 106 (October, 1861), held that the above provision was in violation of Article I, Section 17, of the constitution[22] and that the mere fact that a foreigner resided in a mining district did not subject him to the payment of the tax.

Under the law of 1861, the tax collector was allowed 25 per cent of the amount collected. The proceeds paid into the county treasury were equally divided between the state and the counties wherein the tax was collected. The receipts from the foreign miners' license tax were:

1860	$117,056.47	1865	$123,067.75
1861	160,778.84	1866	112,961.90
1862	139,729.22	1867	79,650.93
1863	186,945.81	1868	60,443.05
1864	174,575.48	1869	14,194.59
1872	$325.92		

During the twenty years that the foreign miners' license tax was in whole or in part a state tax, the total receipts were $5,094,078.42. Of this amount the state received $2,055,085.71, the counties $2,053,340.29, and the collectors $985,652.42. The very rapid decrease in the receipts shown above was caused primarily by the migration of the Chinese who, it was estimated,

[22] Art. I, Sec. 7, read: "Foreigners who are, or may hereafter become bona-fide residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native-born citizens."

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paid over $4,900,000 of the total amount collected. Because of the high tax and the anti-Chinese feeling, thousands of them left the state for the newly discovered placer mines in Idaho and Montana, or found employment with the Central Pacific Railroad then being built. In 1868, because of the large debts of the mining counties, the legislature passed a law requiring that all the money received from the foreign miners' license tax be paid into the county treasury for the benefit of the county in which it was collected. Unless otherwise provided for, ten per cent of the proceeds was paid into the school fund and ninety per cent into the general fund.

The passenger commutation tax act of May 3, 1852, was amended May 2, 1862. Instead of fixing the minimum charge at five dollars and the maximum at ten dollars, for commuting the bonds given by the master of the vessel to indemnify the state in case an immigrant became a public charge, the amendment levied a flat rate of five dollars.[23] This tax was to be collected by the superintendent of immigration or the mayor of the city where the immigrant landed. All the money collected, less 20 per cent allowed the collector, was paid into the state treasury. In 1872, the state supreme court, in the case of the *State* v. *The Steamship "Constitution"* (42 Cal. 578), held the passenger commutation tax act unconstitutional insofar as it applied to passengers not sick. The receipts from the passenger commutation tax were:

1860	$2,344.00	1866	$14,059.85
1861	3,466.00	1867	13,617.10
1862	2,825.50	1868	19,171.80
1863	11,372.53	1869	53,797.31
1864	27,776.00	1870	57,196.00
1865	14,017.65	1871	15,877.60
		1872	$3,864.60

An act of April 26, 1862, levied what is known as the Chinese police tax.[24] This law imposed a monthly capitation tax of two dollars and fifty cents on all Mongolians not extensively engaged in the production of sugar, rice, coffee or tea. A discount of 33⅓ per cent was allowed if the tax was paid a year in advance,

[23] *Statutes of California*, 1862, p. 486.

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and 20 per cent if a month in advance. The tax was collected by the county tax collector, who was allowed to retain 20 per cent of the amount collected. The balance was equally divided between the state and the county wherein it was collected. During 1862 the receipts amounted to $12,696.93, but in July, 1863, the state supreme court, in the case of *Lin Sing* v. *Washburn* (20 Cal. 534), held that the Chinese police tax law violated the federal constitution. Thus for the third time the legislature failed to enact a constitutional anti-mongolian statute.[25]

b. License Taxes on Financial or Quasi-Financial Institutions

It is difficult to ascertain with any degree of exactness just what the law was, from 1860 to 1872, in regard to the taxation of insurance companies. The law of 1860 levied a license tax of twenty-five dollars per quarter on all foreign companies doing business in this state. In 1862, a license tax of twenty-five dollars per quarter was imposed on every person collecting insurance. During the same year a law was passed which compelled foreign insurance companies to pay 2 per cent on the gross amounts of premiums received less returned premiums, unless such companies invested $50,000 in property located in California. In addition to the above changes, the various stamp acts levied duties on insurance policies. By an act of March 26, 1868, the office of insurance commissioner was created and his duties defined. Among other things, he had to collect the following fees:[26]

1. For filing the certificate of incorporation, thirty dollars.

2. For filing the annual statement required by law, twenty dollars.

3. For filing any other paper required by the act of March 26, 1868, five dollars.

4. For furnishing copies of papers filed in the office of the insurance commissioner, twenty cents per folio, and one dollar for certifying the same.

[24] *Statutes of California*, 1862, pp. 462–465.

[25] An act of April 28, 1855, imposed a tax of $50.00 on every immigrant not eligible to citizenship. The act was declared unconstitutional in the case of *People* v. *Downer*, 7 Cal. 170. An act of April 26, 1858, prohibited Chinese immigration. This act, too, was declared unconstitutional.

[26] *Statutes of California*, 1867–68, p. 340.

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From the gross per-cent tax on premiums, the state receipts have been:

1864	$13,707.52	1868	$19,243.99
1865	9,834.17	1869	25,674.95
1866	15,224.43	1870	39,250.06
1867	16,973.25	1871	38,283.76

The fees collected by the insurance commissioner amounted to $77.00 in 1868; to $7,951.00 in 1869; to $8,542.19 in 1870; to $11,226.94 in 1871.

The act of April 30, 1860, levied a license tax on brokers engaged in buying and selling stocks, state, county, city and county securities, or gold dust. This law was repealed by an act of May 17, 1861, which required brokers, associations or corporations engaged in loaning money at interest, in buying or selling notes, bonds, or other evidence of indebtedness, of private persons, or state, county or city and county; or in buying or selling gold dust, gold, or silver bullion, or gold, or silver coin; or engaged in carrying, or transmitting as common carriers gold dust, or gold or silver bullion, or gold or silver coin for a a profit; or engaged in keeping or conducting savings banks, to obtain licenses, the cost of which depended on the amount of business transacted per quarter as shown by this table.[27]

Class	Amount of business per quarter	Cost of license per quarter
I.	$250,000 or more	$100.00
II.	200,000 and less than $250,000	80.00
III.	100,000 and less than 200,000	40.00
IV.	50,000 and less than 100,000	20.00
V.	Less than 50,000	15.00

This tax never proved a very productive source of revenue. From 1860 to 1873, there was collected the amount of $43,917.44, distributed per annum as follows:

1860	$3,777.72	1867	$3,839.09
1861	4,475.87	1868	2,740.75
1862	3,500.09	1869	3,178.02
1863	3,592.38	1870	2,913.67
1864	3,946.30	1871	2,362.86
1865	3,055.36	1872	2,717.11
1866	3,577.07	1873	241.15

[27] *Statutes of California*, 1861, pp. 442, 443.

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The stamp-tax act of April 29, 1857, with all its amendments, was repealed by an act of May 9, 1861, which imposed on every sheet or piece of paper, or parchment, or other material on which might be written, printed, engraved or lithographed, any bill of exchange, or draft or order, or certificate, or other written evidence of deposit, or letter of credit to any person or persons payable outside the state, the following stamp tax:

Class	Value of the credit instrument				Stamp tax
1.	If above	$20	and not over	$50	$.08
2.	If above	50	and not over	100	.20
3.	If above	100	and not over	150	.30
4.	If above	150	and not over	200	.40
5.	If above	200	and not over	300	.60
6.	If above	300	and not over	400	.80
7.	If above	400	and not over	500	1.00
8.	If above	500	and not over	750	1.40
9.	If above	750	and not over	1,000	2.00
10.	If above	1,000	and not over	1,500	3.00
11.	If above	1,500	and not over	2,000	4.00
12.	If above	2,000	and not over	3,000	6.00
13.	If above	3,000	and not over	4,000	8.00
14.	If above	4,000	and not over	5,000	10.00
15.	If above	5,000	and not over	7,000	14.00
16.	If above	7,000	and not over	10,000	20.00
17.	If above	10,000	and not over	15,000	30.00
18.	If above	15,000	and not over	20,000	38.00
19.	If above	20,000	and not over	30,000	56.00
20.	If above	30,000	and not over	50,000	90.00
21.	If above	50,000	and not over	100,000	175.00
22.	If above	100,000			200.00

The stamp duties on insurance policies were one-half the rate on bills of exchange. A fee of ten dollars was charged for every license issued to an attorney granting him permission to practice law in this state.

The enforcement of the law was intrusted to the commissioners of stamp duties—the governor, state treasurer and the attorney-general. The stamped paper was sold by the county treasurers, who were required to settle with the state controller at the time they made their semi-annual settlements, except that the treasurer of the City and County of San Francisco had to settle every month. An act of March 31, 1866, levied a stamp tax on telegrams if their contents were of such a nature as to come within the act of May 9, 1861.

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The state receipts from stamp duties were:

1860	$163,112.96	1867	$175,188.91
1861	113,407.33	1868	194,848.07
1862	68,877.71	1869	164,482.57
1863	111,085.94	1870	166,794.86
1864	183,963.28	1871	172,781.13
1865	190,205.71	1872	167,068.49
1866	201,967.81	1873	77,266.87

c. License Taxes on Amusements

The state revenue laws levied a license tax of twenty dollars on each exhibition by a caravan, menagerie, or collection of animals, and a license of ten dollars per day on each circus, rope or wire-dancing performance. The lessees or managers of theatres, opera singers or serenaders, had to secure a license, the cost of which was five dollars per day if for less than one month, $100.00 if it was issued for a month, $200.00 if for three months and $600.00 if for one year. In 1861 the license tax on billiard tables and bowling alleys was reduced from six dollars to five dollars per quarter year. The total state receipts from the license tax on amusements during this period (1860 to 1872), amounted to $109,576.26. The greater part of this revenue was derived from the license tax on billiard tables and theatres.

d. License Taxes on Merchants and Retail Liquor Dealers

Every person who sold any goods, wares, or merchandise, wines or distilled liquors, drugs or medicines, jewelry, or wares of precious metals, and every person who kept carriages and horses for rent or hire, was required to obtain a license, the cost of which was:

Class	Monthly sales	Cost of license per month
1.	Average monthly sale $100,000 or more	$50.00
2.	Average monthly sale 75,000 and less than $100,000	37.50
3.	Average monthly sale 50,000 and less than 75,000	25.00
4.	Average monthly sale 40,000 and less than 50,000	20.00
5.	Average monthly sale 30,000 and less than 40,000	15.00
6.	Average monthly sale 20,000 and less than 30,000	10.00
7.	Average monthly sale 10,000 and less than 20,000	7.50
8.	Average monthly sale 5,000 and less than 10,000	5.00
9.	Average monthly sale 1,000 and less than 5,000	3.75
10.	Average monthly sale less than 1,000	2.50

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The receipts from the sale of these license were paid into the county treasury, one-half for state and one-half for county purposes, except that all the money received from classes 9 and 10 was retained by the counties.

The merchants' license tax did not apply to hawkers and pedlers. These itinerant salesmen, according to the revenue act of April 30, 1860, paid a monthly tax of thirty dollars. The revenue act of May 17, 1861, reduced these charges to five dollars a month if the pedler carried his wares, and to fifteen dollars if he used a horse and wagon. Agricultural products were allowed to be sold without obtaining a license. The proceeds from the sale of licenses were paid into the county treasury for the benefit of the county.

6. State Receipts and Expenditures, 1860–1872

The following table shows the state receipts and expenditures from 1860 to 1872:

Year	Receipts	Expenditures	Surplus	Deficit
1860	$1,198,581.81	$1,165,717.95	$32,863.86	.....
1861	1,292,718.63	1,462,690.81	.....	$169,972.18
1862	1,105,630.79[28]	1,146,744.65	.....	41,113.86
1863	1,626,278.58	2,097,268.29	.....	470,989.71
1864	2,096,437.83	2,093,228.18	3,209.65	.....
1865	2,594,365.29	2,603,065.08	.....	8,699.79
1866	2,970,736.48	3,136,770.03	.....	166,033.55
1867	3,595,232.06	2,954,233.79	640,998.27	.....
1868	2,801,920.25	2,977,456.43	.....	175,536.18
1869	2,918,211.09	3,180,725.76	.....	262,514.67
1870	3,508,163.91	3,814,037.22	.....	305,873.31
1871	3,329,984.99	2,915,458.60	414,526.39	.....

7. Special Legislation

A large portion of the time of the legislature from 1860 to 1870 was devoted to special legislation. This was of a twofold character. In the first place, special privileges were granted to certain counties, and in the second place, county and state aid was granted to railroad corporations. However much one might desire to criticise the legislature for devoting its time to special legislation, he must admit that it was largely the direct conse-

[28] The controller gives the receipts at $1,105,630.79. He, in his recapitulation, omitted an item of $74,101.71 and made an error amounting to $28,138.91 in his footings.

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quence of evolutionary changes and local development on the one hand, and of the defects of the state constitution on the other. The growth of the population and industry increased manifold the needs of the local governmental units—the city, district, and county. The constitution prohibited, so at least it was claimed, general legislation looking towards local autonomy and self-government. Consequently the state legislature became the lawmaker, not only for the state at large, but also for the counties and municipalities in purely local matters. This power was exercised most frequently in connection with fiscal legislation, because of the limitations imposed on the county tax rate by the general revenue acts. Again and again counties desiring to make extensive improvements found themselves unable to secure the necessary funds. To obtain these the county authorities appealed to the legislature, which alone could raise the tax rate above the limit set by law. The usual response was an act authorizing the levying of a special tax for one particular purpose and for a specific term of years. Thus, year after year, the supervisors of this or that county were empowered to levy special *ad valorem* and poll taxes for the construction of roads; for the establishment and maintenance of schools, jails and hospitals; to pay the interest on and the principal of bonds issued for the purpose of subscribing to the capital stock of turnpike or railroad companies or granting subsidies to them. Frequently the special legislation suspended the general revenue law, and extended the time allowed for making the assessments, or divided certain counties into revenue districts, or consolidated county offices. Some idea of the extent to which special revenue laws were enacted is obtained from a statement of the supreme court: "It has been found necessary to devise almost as many different revenue systems as there are counties in the state, and frequently they will suffice for only one year."[29] Of the entire subject Governor Low, in his inaugural address, said: "Special legislation has been a crying evil in this state. A large proportion of each session of the legislature has been consumed in listening to the advocates of relief bills, bills granting franchises and other special privileges, and bills even to advance the personal interests of crim-

[29] 34 Cal. 446.

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inals, litigants in civil cases and the administrators of the estates of deceased persons."[30] In spite of these utterances, special legislation was enacted until the adoption of the constitution of 1879, which prohibited it.

8. Railroad Aid and Subsidies

The agitation for a transcontinental railroad antedates the discovery of gold in California in 1848. This event demonstrated, however, that the visions of the promoters were not vain dreams. The large influx of population, the tremendous amount of suffering endured for want of transportation facilities, the lack of means of communication with the eastern part of the United States, all pointed to but one conclusion—a transcontinental railroad. From 1850 to 1860, one resolution after another, asking for federal aid, was passed by the state legislature. Not until the beginning of the Civil War did Congress realize the importance of a transcontinental railroad. To bring the east and west into more intimate relationship and to stimulate and encourage commerce with the Orient, Congress, in 1862, passed the Pacific Railroad Act. The enactment of this law acted as a powerful impetus to railroad aid and subsidies in California. A transcontinental road being assured, the counties of California began to vie with one another in soliciting railroad promoters to construct roads through their particular localities.

An act of April 16, 1859, authorized counties to become stockholders in railroad companies. The consent of the state legislature and the approval of the people of the county was necessary. The act limited the amount of stock a county might purchase to five per cent of the assessed valuation of the property in the county. The county aid assumed two forms: first, subscription to stock; second, direct subsidies. The purpose of some of the counties in subscribing to the capital stock of the railroad companies was not merely to assist in the building of the road and indirectly to secure the development of the counties, but to realize a profit from the investment and to that extent reduce taxation. The following table[31] shows the amount of bonds issued by counties, cities and counties and cities to aid railroad companies.

[30] *Assembly Journal*, 15th Session, p. 96.
[31] *Debates, Constitutional Convention*, 1879, vol. 1, pp. 578–586.

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STATEMENT OF BONDED INDEBTEDNESS OF THE COUNTIES OF THE STATE OF CALIFORNIA INCURRED IN AID OF RAILROAD COMPANIES

Name of County	Name of Railroad	Amount of bonds issued	Rate of interest	Amount of bonds redeemed	Realized from sale of railroad stock	Amount of bonds outstanding June 30, 1878
Butte	California Northern Railroad Company	$200,000[1]	10%	$67,000	None	$133,000
El Dorado	Placerville & Sacramento Valley R. R. Co.	200,000[2]	10%	53,500	.....	146,500
Los Angeles County	Los Angeles & San Pedro R. R. Co.	150,000[3]	10%	14,000	.....	136,000
	Southern Pacific R. R. Co.	377,000[3]	7%	.....	.....	377,000
Los Angeles City	Los Angeles & San Pedro R. R. Co.	75,000[3]	10%	.....	.....	75,000
	Southern Pacific R. R. Co.	13,000[3]	7%	.....	.....	13,000
Marin	North Pacific Coast R. R. Co.	160,000[3]	7%	.....	.....	160,000
Napa	Napa Valley & California Pacific	250,000[3]	10%	22,000	.....	228,000
Placer	Central Pacific Railroad Co.	250,000[3]	8%	250,000	250,000	.....
Sacramento City & County	Central Pacific Railroad of California	300,000[3]	8%	222,500	210,000	77,500
San Francisco City and County	San Francisco & San Jose R. R. Co.	300,000[3]	7%	298,500	1,000	1,500
	Central Pacific R. R. Co.	400,000[3]	7%	23,000	.....	377,000
	Western Pacific R. R. Co.	250,000[3]	7%	.....	.....	250,000
San Joaquin	Western Pacific R. R. Co.	250,000[3]	8%	.....	.....	.....
	Stockton & Visalia R. R. Co.	80,000[3]	7%	.....	.....	80,000
City of Stockton	Stockton & Visalia R. R. Co.	120,000[3]	.....	.....	.....	120,000
San Mateo	San Francisco & San Jose R. R. Co.	100,000[3]	7%	.....	.....	.....
Santa Clara	Western Pacific R. R. Co.	150,000[3]	7%	.....	100,000	150,000
	San Francisco & San Jose R. R. Co.	200,000[3]	7%	200,000	100,000	.....
Santa Cruz	Santa Cruz	114,000[3]	7%	.....	.....	114,500
Solano	San Francisco & Marysville R. R. Co.	200,000[3]	7%	.....	.....	200,000
Sonoma	Sonoma County, California Pacific San Francisco & North Pacific	267,000[3]	8%	.....	.....	267,000
Yuba[31]	Yuba R. R. Co.	65,000[3]	8%	65,000	.....	.....
	San Francisco & Marysville R. R. Co.	100,000[3]	10%	67,500	.....	32,500
	Totals	$4,571,000		$1,283,000	$661,000	$2,938,500

[1] In exchange for Railroad County Bonds.
[2] Subscription to Railroad companies stock.
[3] Subsidy.

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State aid was granted to but one of the numerous railroad companies incorporated in California. This was the Central Pacific Railroad Company organized June 28, 1861, to construct a railroad from Sacramento across the Sierra Nevada mountains to the Nevada boundary line. The funds of the promoters being insufficient to finance the project, they appealed to the state for assistance. On April 25, 1863, Governor Stanford approved the subsidy bill.[32] Under this law the state agreed to pay the Central Pacific Railroad Company $10,000 per mile for every twenty consecutive miles of road constructed and put in operation. In case there was no money in the state treasury, the warrants drawn in favor of the company were to bear interest at rate of seven per cent per annum. The law prohibited the state from paying, during 1863 and 1864, more than $100,000 and thereafter more than $200,000 per annum. In return for the aid given, the railroad company agreed, at all times when required, to transport and convey free of charge public messengers, convicts being taken to the state prison, materials used in the construction of the state capitol, articles intended to be exhibited by the State Agricultural Society, and California troops and their ammunition, in case of war, insurrection or invasion.

The subsidy given by the state neither materially improved the credit of the company, nor was it sufficient to assure the rapid construction of the road. On April 4, 1864, the above act was repealed and a new law[33] substituted. By this law the company was authorized to issue $12,000,000 worth of bonds. On $1,500,000 the state agreed to pay seven per cent interest for twenty years. To pay the interest ($105,000) the legislature levied an annual *ad valorem* tax of eight cents on every one hundred dollars worth of taxable property and authorized the state treasurer, in case the receipts from the tax did not equal the interest payment, to draw on the general fund for the balance. In return the railroad agreed to transport free of charge, not only the persons and the commodities mentioned above, but also insane persons being taken to the state hospitals. Moreover the company agreed to construct and put in operation at least twenty miles of road per annum.

[32] *Statutes of California,* 1863, p. 465.
[33] *Ibid.,* 1863–64, pp. 344

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Soon after the passage of the act of April 4, 1864, the attorney-general asked for a writ of injunction to prevent State Treasurer Pacheco from paying the interest on the $1,500,000, on the ground that the interest payment ($105,000) increased the state debt above $300,000 and that therefore the act was unconstitutional, and that it violated section 10 of article XI[34] of the state constitution, which prohibited the legislature from loaning the credit of the state to individuals or corporations. The court, in the case of *People* v. *Pacheco,* 27 Cal, 176 (1865) refused to grant the writ of injunction. It held that the act did not violate article IX of the constitution, limiting the state debt which might be incurred by the legislature to $300,000, because it levied an annual tax to pay the interest as it fell due. The court also held that since the state was and would be compensated, the money advanced by it was not in the nature of a gift or loan.

Though the court failed to uphold the contentions of the attorney-general his attitude marked the beginning of a campaign against subsidy legislation which culminated in 1871. In 1870 the legislature passed what at the time was known as the five per cent subsidy act. This act called forth severe denunciations and criticisms. During the gubernatorial campaign of 1871, subsidy legislation was condemned by both the Republicans and the Democrats. A plank in the state platform of the Republican party read:

> That the subsidizing of railroads, or other private corporations, by grants of public lands, or by taxation of private property in any form, is contrary to sound maxims of government, productive of gross corruption and abuse, and a plain invasion of the rights of the citizen. And we hereby pledge the Republican party to an uncompromising opposition to any and all legislation for such purposes; and whereas, the supreme court has decided that such legislation is not in conflict with the constitution; therefore, resolved, that we are in favor of an amendment to that instrument prohibiting the enactment of any law granting such subsidies.[35]

[34] Art. XI, Sec. 10, of the state constitution, read: "The credit of the state shall not, in any manner, be given or loaned to, in aid, of any individual, association, or corporation; nor shall the state, directly or indirectly, become a stockholder in any association or corporation."

[35] Davis, *Political Conventions in California,* p. 308.

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Section nine of the Democratic platform read:

That we are uncompromisingly opposed to subsidizing railway or other private corporations out of the public treasury, to the overwhelming increase of debt and taxation; that laws which impose taxes upon the mass of the citizens in aid of such corporations, whether in the form of donations, loans, or subscriptions, are an invasion of the rights of private property and a departure from sound maxims of government, and result in the bankruptcy of towns and counties; that they lead to gross abuses, are a prolific source of corruption, and violate the cardinal principles of democracy, to-wit: that government is instituted for the welfare and security of the mass of the people, and not for aggrandizement of a favored few; and that the law upon the statute books known as the five per cent law,[36] ought to be immediately repealed.[37]

At the election of 1871 Newton Booth, Republican candidate for governor, received 62,581 votes, and H. H. Haight, Democratic candidate, 57,520 votes.

9. California and the Civil War

At the outbreak of the Civil War, public opinion in California was wavering. Three courses of action presented themselves: first, California might remain loyal to the Union; second, she might secede and establish a "Pacific Republic"; third, she might secede and join the Southern Confederacy. Aside from a few individuals, who now and then raised a Palmetto flag, there were few who favored a union with the Confederate States. The real issue was, whether to remain in the Union, or to establish a "Pacific Republic." The latter idea was endorsed by Representatives Scott and Burch and Senator Gwin because of the distance intervening between California and Washington and the lack of communication and transportation facilities. The San Francisco *Herald* advocated secession on the ground of self-protection and self-perpetuation. Opposed

[36] The five per cent subsidy act, approved April 4, 1870, authorized the county boards of supervisors to grant such aid, subject to the approval of the electors of the county, to railroad companies, which in amount should not exceed five per cent of the total valuation of the property in the county, according to the last assessment preceeding the grant. The act was repealed March 21, 1872, except as to the following counties: Santa Cruz, San Diego, Santa Barbara, San Luis Obispo, San Bernardino, Marin, Los Angeles, the City and County of San Francisco. An act of Jan. 14, 1874, repealed the law of April 4, 1870, and all its amendments.

[37] Davis, *Political Conventions in California*, p. 299.

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to this paper were the San Francisco *Call*, the San Francisco *Bulletin* and the Sacramento *Union*. It is to the managers and editors of these papers, to the indefatigable energy of Thomas Starr King, E. D. Baker, Addison McCrane, F. B. Tracy, A. P. Callin, General James Shield, and Newton Booth, that the people of the state are indebted for staying the tide of secession and cementing the bonds of the Union.

In September, 1861, the news of the call for 6500 California volunteers arrived at the state capital. By this time it was settled, more or less definitely, that California would remain loyal to the Union. The call for volunteers was, however, slowly answered, but this was largely because of local conditions. California was far removed from the seat of conflict. Her farmers were reaping large crops. Business was flourishing, wages were fifty per cent higher than in the east, and everybody was realizing unusually large profits. The people found it no easy task to sacrifice the height of their ambition, the acquisition of a fortune, for thirteen dollars per month, the pay of a private soldier in the United States army. The state legislature, persuaded that the volunteers should receive a greater compensation, passed the soldiers' relief act, the soldiers' bounty act, and the line officers' relief act.

a. The Soldiers' Relief Act

The soldiers' relief act was approved April 27, 1863. It authorized the state treasurer to issue bonds to the amount of $600,000, the proceeds of which were to be paid into the soldiers' relief fund, for the payment of the California volunteers in the service of the United States and aiding in repelling invasions, suppressing insurrection, enforcing laws and protecting public property. The bonds, issued in denominations of $500, and bearing seven per cent interest, payable semi-annually, became due in 1883. The law specified that they should not be sold for more than fifteen per cent discount.

To provide for the payment of the interest and a sinking fund, the law levied a tax of two cents on every one hundred dollars worth of property for 1862, and an annual tax of four cents for each subsequent year. If at any time the interest fund

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was depleted, the state treasurer was authorized to draw on the general fund, and if this was exhausted, he was empowered to make any arrangements he deemed necessary to save the credit of the state. The interest on the bonds and the principal was to be paid in gold or silver coin of the United States. The law allowed such volunteers as those mentioned above, five dollars per month in addition to the pay received from the United States government.

b. The Soldiers' Bounty Act

To further provide for the California volunteers, the soldiers' bounty act of April 4, 1864, was passed. This act appropriated $2,000,000 to be expended for the benefit of every soldier who should enlist for three years, or during the war, in any regiment, battalion, company or battery, as a quota of the volunteers of the state, under the laws of Congress or the orders of the President of the United States. To raise the money the state treasurer was authorized to issue and sell bonds at not more than twelve per cent discount. The interest, 7 per cent per annum, was payable semi-annually. No bonds could be issued in denominations of less than $100.00. To provide for the interest and the sinking fund, the act levied an annual tax of twelve cents on every one hundred dollars worth of property. If this tax did not yield enough revenue, the state treasurer, as in the case of the soldiers' relief act, could draw on the general fund, and as a final resort, could make any arrangement he deemed essential to protect the credit of the state.

According to the controller's report, bonds to the amount of $1,494,000 were sold. The proceeds were disposed of as follows:[38]

1. Every enlisted soldier received $160.00; $40.00 of which was paid at the time of enlistment, and sums of $20.00 at the end of each six months of service.

2. Soldiers who had served in the army more than six months and who re-enlisted received an additional bounty of $140.00, $50.00 of which was paid at the time of re-enlistment and $40.00 at the end of each six months of service.

In the case of death or honorable discharge, the full bounty was paid.

[38] *Statutes of California*, 1863–64, p. 487.

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Under the act providing for the relief of line officers of the California volunteers, the state never issued any bonds. The relief, said Governor Stanford, in his message of 1863, was paid out of the current income so as to save the state the loss arising from the sale of bonds at a discount.

The military expenses of the state of California from 1860 to 1870 were a heavy drain on the state revenues and a real burden on the people. The expenditures were:

1860	$85,235.00	1866	$924,820.00
1861	23,570.90	1867	702,698.06
1862	25,040.13	1868	114,512.89
1863	58,071.01	1869	54,586.58
1864	380,048.08	1870	40,797.40
1865	951,602.62		

c. *The Federal Direct Tax*

Before dismissing the discussion of California and the Civil War, mention must be made of the federal direct tax, and the specific contract act. On August 6, 1861, President Lincoln approved an act levying a direct tax of $20,000,000, to be apportioned among the several states according to their population. California's share of this tax amounted to $254,538.66⅔. Section 53 of the act read: "Any State or Territory and the District of Columbia may lawfully assume, assess, collect, and pay into the Treasury of the United States the direct tax, or its quota thereof imposed by this act." Each state or territory was to notify the President of its intention before the second Tuesday of February, 1862. For the cost of assessing and collecting the tax, the states were allowed a discount of 15 per cent of the portion paid on or before the last day of June, 1862, and a discount of 10 per cent on the portion paid on or before the last day of September, 1862.

Governor Stanford notified the President of the United States that California would assume the responsibility for assessing, levying and collecting her quota of the direct tax. The question at once arose, how was the state to raise the $254,538.66⅔. The general fund was exhausted and the country districts were suffering from disastrous floods. Three propositions were considered:

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1. A loan of $254,000 less the 15 per cent discount.
2. An *ad valorem* tax.
3. A capitation tax.

The arguments in favor of a loan were, the depleted condition of the state treasury; the supposed decrease of taxable property because of the floods, and, lastly, the possibility that the United States would ultimately repay the tax. The idea of a state loan was strongly opposed by the San Francisco *Bulletin* because of the large state debt. The supporters of a state loan were defeated by those favoring a capitation and *ad valorem* tax. An act of April 12, 1862, providing for the payment of the direct tax, levied a poll tax of two dollars on every male inhabitant over twenty-one years of age, except Indians and volunteers in the United States army, and an *ad valorem* tax of fifteen cents on every one hundred dollars worth of taxable property in the state. These taxes were to be assessed, levied and collected in the same manner as other state taxes, except that officers collecting poll taxes were allowed fifteen per cent on all sums collected and paid into the county treasury before June 1, 1862, and ten per cent on all sums collected thereafter. The state treasurer was to settle with the assistant treasurer of the United States at San Francisco, on the first day of each month, but this provision was never observed. The statute was defective in that it did not comply with the federal statute levying the direct tax. This law did not require the assistant treasurer of the United States to do anything but receive the money. The state law, however, contained this provision: "all the officers required by law to discharge any duties relative to the assessment, collection, safe keeping, and disbursement, of the state *ad valorem* and poll tax, are hereby required to discharge the same duties, and shall be subject to the same restrictions, fines, and penalties, in the assessment, collection, safe keeping, and disbursements, of the federal *ad valorem* and federal poll tax."[39] According to this law, no money could be paid out of the federal tax fund save upon presentation of a claim by the assistant treasurer of the United States and its approval by the state controller and the state board of examiners.

[39] *Statutes of California*, 1862, p. 205.

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The state treasury was in such a depleted condition that it was impossible to take advantage of the fifteen per cent discount. To be allowed the ten per cent discount payment had to be made prior to September 30, 1862. On September 1 there was in the hands of the state treasurer $70,932.56 belonging to the federal tax fund. Of this amount, $68,362.56 was in coin and the balance in legal-tender notes, the latter having been received from the sale of school lands and the payment of the federal poll tax.[40]

The question now arose, in what kind of money shall California pay her quota of the direct tax—in coin or in legal-tender notes? In June, 1862, the state treasurer had a conversation with Governor Stanford relative to setting California's Indian war-debt claim against the direct tax. This proposition was soon abandoned because it involved the auditing of the claims at Washington, which meant considerable delay. On July 22 the state treasurer addressed this letter to the attorney-general of California: "Will you give me your opinion officially whether the legal-tender notes of the United States are receivable for taxes levied under authority of the state of California; if any portion of such taxes are payable in such paper of the United States as is now a legal tender; and, if so, what class of tax may be so paid? Further, if licenses and stamp duties, or either, may be paid in such paper." This letter the attorney-general failed to answer.

On September the first and sixth, 1862, the state treasurer informed the assistant treasurer of the United States, Mr. Cheesman, that there was in the federal fund $63,839.36. On September 6 Mr. Cheesman replied that he had no authority to receive the money anywhere except in San Francisco. Two days later State Treasurer Ashley sought the opinion of State Controller G.

[40] On July 21, 1862, the deputy county treasurer of Tulare County sought the opinion of the state treasurer as to whether he was authorized to received legal-tender notes for the payment of taxes. On July 30, 1862, State Treasurer Ashley replied that such notes were receivable in all cases except where the law specifically stated that taxes must be paid in coin. According to his view, federal poll taxes and stamp taxes might be paid in legal-tender notes. Likewise the purchasers of school and swamp lands might pay in legal-tender notes. On May 28, 1862, Mr. Frank M. Pixley, attorney-general of California, informed the state treasurer that he had advised county treasurers that legal tender-notes were receivable for all debts due to the state; that they had the same legal standing as coin, and were receivable for taxes except where prohibited by the decision of the Supreme Court of California in the case of *Perry* v. *Washburn*, 20 Cal. 318.

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R. Warren. The controller, on the following day, advised the state treasurer to hold the money until the November settlements with the county treasurers and then pay in a single payment the entire amount due the federal government. But the state treasurer did not agree with the controller. By following the latter's suggestion the state would lose the ten per cent discount. At about the middle of September Mr. Ashley happened to be in San Francisco. Not having been able to get from the attorney-general of California an answer to his letter, he consulted the law firm of Patterson & Stow, who advised him that he could exchange the coin in the federal tax fund for legal-tender notes and pay these to the United States government. He at once entered into a contract with the brokerage firm of I. & S. Wormser to supply him with legal-tender notes at ninety-two and four-fifths cents. Upon Ashley's return to Sacramento the controller drew the following warrant:[41]

Seat of Government, Controller's Office,
California, September 22, 1862.

[63,839.31]

The treasurer of state will pay, out of the Federal Tax Fund, to the order of D. R. Ashley for Assistant Treasurer U. S., San Francisco, sixty-three thousand eight hundred and thirty-nine $^{31}/_{100}$ dollars. Kind of service—state's quota (portion of) direct tax due U. S. liability accrued—September 22d, 1862.

No. 210 G. R. WARREN, Controller.

The investigation conducted subsequently by a committee of the Assembly revealed the surprising fact that this money, taken to San Francisco by Messrs. Ashley and Warren, was intrusted to Mr. Stow of the above-mentioned law firm without any security or receipt for the money received. Mr. Stow deposited it for safe keeping with Donohoe, Ralston & Co., who paid the money over to I. & S. Wormser as rapidly as they purchased the legal-tender notes. On September 28 the state treasurer offered the notes thus secured to the assistant treasurer of the United States. Mr. Cheesman refused to accept the notes until he had communicated with the Secretary of the Treasury of the United States. On the eighth of October he informed the state treasurer

[41] Minority report of the special committee of the Assembly, *Appendix to Journal of Senate and Assembly*, 14th session.

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that he had been authorized to receive the legal-tender notes offered on September 28. By this conversion of coin into legal-tender notes the state saved $4,486.39 and also profited to the amount of $7,093.25⅔ by making the payment prior to the thirtieth day of September. Though the state treasurer effected by his transactions a saving of more than $10,000 to the state, he became the target of severe criticism. Governor Stanford, who had not been consulted in the matter, addressed a letter[42] to the state treasurer and demanded an explanation. The San Francisco *Bulletin* characterized the treasurer's act as a "niggardly and an unworthy procedure." The denunciations heaped upon the state treasurer did not deter him from carrying out his policy of paying the direct tax in legal-tender notes. As soon as he was informed that the United States would receive these notes, he began to search for some one who would furnish him enough to pay the balance of the direct tax. He finally entered into a contract with Mr. W. W. Stow, who agreed to secure them at eighty-eight cents on the dollar.[43] On December 27, 1862, the state controller drew his warrant for $183,606.10 in favor of D. R. Ashley, the state treasurer, for the assistant treasurer of the United States. On January 2 he offered the money to Mr. Cheesman who, encouraged by the attitude of Governor Stanford and public opinion, refused to receive the money until the state legislature had taken action on the question. According to a statement of the state treasurer, Mr. Cheesman was instructed on January 8, 1863, and again on January 24, to receive the money, but disobeyed the instructions of his superiors until February 5, when he agreed to receive the money

[42] To quote from Governor Stanford's letter, dated October 13, 1862: "How, when, and where, why and by what authority was specie taken from the state treasury vaults where it was placed for the United States, changed into another and depreciated currency not receivable into the state treasury for taxes, and this depreciated currency tendered the United States, in payment of the direct tax?"

[43] According to the minority report of the special committee of the Assembly, appointed to investigate the action of the state treasurer, W. W. Stow paid eighty-five cents on the dollar for the legal-tender notes furnished to the state at eighty-eight, thereby making a profit of $4,510.00. The committee could not ascertain the profit made by I. and S. Wormser. The investigation did not reveal any facts from which one might infer that either Treasurer Ashley or Controller of State Warren profitted personally by paying the direct tax in legal-tender notes. (*App. to Journals of Senate and Assembly*, 14th Session.)

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offered on January 2, 1863. On this last payment the state saved $20,500.32. The following figures show the total amount the state saved by converting gold and silver coin into legal-tender notes and by the ten per cent discount on the first payment:

Due to the United States		$254,538.66
Paid Sept. 30, 1862	$63,839.31	
Discount 10 per cent	7,093.25	
Paid Feb. 26, 1863	183,606.10	
		254,538.66
Amount saved to California:		
10 per cent discount on first payment		7,093.25
Premium on gold Sept. 30, 1862		4,486.39
Premium on gold Jan. 2, 1863		20,500.32
Total		$32,079.96

As a result of the controversy arising from the actions of the state treasurer and the opinion of the attorney-general, an act of April 4, 1864, required that all taxes, state, county and city, on real and personal property; all stamp duties levied by the act of May 9, 1861, or its amendments, and all commutation taxes, should be paid into the state treasury in gold or silver coin of the United States.

d. The Specific Contract Act

The currency question in California attracted nation-wide attention during the Civil War. Prior to 1862 there was but one kind of currency in the state. The state constitution, as stated in Chapter I, prohibited the issuance of paper money by any kind of bank, firm or corporation. Because of this constitutional provision, and the extensive production of gold, the people of California had become accustomed to coin as the medium of exchange. The United States notes, issued under the act of February 25, 1862, were to be received "in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States,

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except duties on imports and interest as aforesaid." This act introduced paper money into California for the first time in any form whatsoever. Its appearance was not greeted with joy.

Everywhere the use of the legal-tender notes was opposed on simple business grounds. The creditors saw their interest depreciate. The farmers, fearful lest the favorable state of exchange with England would be destroyed, resolved to resist the appearance of the "greenbacks." Some few opposed them because they could not gauge the fluctuations in their value, for the means of communication with the East had not been sufficiently developed. Others were of the opinion that it was impossible to get a sufficient supply to California to meet the business needs.[44]

Whether or not legal-tender notes should be accepted in payment of the state taxes was uncertain. The California statute of 1861 required all taxes to be paid in the legal coin of the United States, or in foreign coin at a value fixed by Congress. Entrenched behind this statutory provision, the tax collector of the city and county of San Francisco refused to accept legal-tender notes in payment for state and county taxes. The state supreme court, in the case of *Perry* v. *Washburn*,[45] 20 Cal. 318, (July, 1862), upheld the action of the tax collector and declared that United States notes could not be accepted as payment for state and county taxes.

[44] Moses, "Legal Tender Notes in California," *Quarterly Journal of Economics*, vol. 7, p. 1 (1892–93.)

[45] The court said (p. 350): "The act does not, in our judgment, have any reference to taxes levied under the laws of the state. It only speaks of taxes due to the United States, and distinguishes between them and debts. Its language is, 'for all taxes, internal duties, excises, debts, and demands of every kind due to the United States,' the notes shall be receivable. When it refers to obligations other than those to the United States, it only uses the term 'debts'; the notes it declares shall be 'a legal tender in payment of all debts, public and private.' Taxes are not debts within the meaning of this provision. A debt is a sum of money due by contract, express or implied. A tax is a charge upon persons or property to raise money for public purposes. It is not founded upon contract; it does not establish the relation of debtor and creditor between the taxpayer and state; it does not draw interest; it is not the subject of attachment; and it is not liable to set-off. It owes its existence to the action of the legislative power, and does not depend for its validity or enforcement upon the individual asset of the taxpayer. It operates *in invitum*."

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As the United States treasury notes were declining in value, merchants, laborers, and producers began to seek relief. On November 8, 1862, the merchants of San Francisco agreed not to receive or pay out legal-tender notes at any value except par. They soon discovered, however, that they could not enforce the agreement. The next move was an appeal to the legislature. The "Specific Contract Bill" was introduced and passed the assembly by a vote of 42 to 18 and the senate by a vote of 22 to 11. On April 27, 1863, the governor approved the bill.[46] This law read in part:

> In an action on a contract or obligation in writing, for the direct payment of money, made payable in a specified kind of money or currency, judgment for the plaintiff, whether the same be by default or after verdict, may follow the contract or obligation, and be made payable in the kind of money or currency specified therein; and in an action against any person for the recovery of money received by such person in a fiduciary capacity, or to the use of another, judgment for the plaintiff, whether the same be by default, or after verdict, may be made payable in the same kind of money or currency so received by such person.

The enactment of the specific contract act aroused bitter opposition. Attempts were made to have the supreme court declare the act illegal, but in the case of *Carpentier* v. *Atherton*[47] it held that the so-called specific contract act was purely remedial in its character and was not in conflict with the act of congress nor with public policy. In the case of *Galland* v. *Lewis*[48] the act was held to be retroactive in its effect. The decisions of the supreme court only intensified the differences between the defenders and the opponents of the law. Frequent public meetings were held in San Francisco for the purpose of defeating any attempt to mold public opinion so as to favor the repeal of the law. At one of the meetings Assistant United States Treasurer D. W. Cheesman endeavored in vain to present the case of the federal government.

During the early part of the following session of the legislature a bill repealing the specific contract act was introduced. While this bill was under consideration, the legislature, through

[46] *Statutes of California*, 1863, p. 687.

[47] 25 Cal. 564.

[48] 26 Cal. 47.

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Thomas Campbell of the assembly, and E. W. Roberts of the senate, sent this message to Salmon P. Chase, secretary of the treasury of the United States: "Is California's gold law against national policy? Repeal proposed. Your opinion is important. Answer." Two days later, February 8, 1864, Mr. Chase replied as follows: "I am clearly of the opinion that the California gold law is against national policy and shall be much gratified to see California declare herself in favor of one currency for the whole people, by its repeal." Neither the reply of Secretary Chase, nor the speech of Mr. Cheesman before the legislature at Sacramento, persuaded the lawmakers that the law should be repealed. In the senate the bill was defeated by a vote of 24 to 16. No vote was taken in the assembly. During the following session of the legislature attempts to repeal the law were likewise defeated.

10. County Debt

We refer to the subject of county indebtedness because of the strenuous effort, made in 1868, to have the state assume the county debt, or loan its credit to various counties of the state. Prior to 1866, frequent complaints had been heard from this or that county of heavy taxation, but no one had any very definite conception of the magnitude of county indebtedness, nor of the actual financial condition of the counties. On February 28, 1868, an assembly committee, appointed at an earlier date, reported that "there must be an early change in all the matters of county expenditures or many counties will be hopelessly bankrupt." The report of the committee was not complete in that it was unable to ascertain the debt of Marin, Inyo, Lake, and Sonoma counties. Excluding these, the total county debt was reported at $9,020,404.87, of which $7,613,438.42 was funded.[49] The population of the state, excluding Indians and Chinese, was estimated at 494,382.[50] According to these figures the per-capita county debt was $18.04.

The figures do not represent the real situation. Nearly one-half of the debt was charged against the City and County of San Francisco; about one-fourth against the agricultural counties,

[49] *Appendix to Journal of Senate and Assembly*, 17th Sess., vol. 3.

[50] Does not include Alpine, Inyo, and Kern counties.

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and one-fourth against the mining counties. While the county debt of the agricultural counties and of the City and County of San Francisco was large, it did not require immediate legislative attention. The agricultural and commercial industries were developing rapidly. The mining counties presented a striking antithesis. The placer mines were almost exhausted, quartz mining was not yet developed and agricultural industries had been neglected. The San Francisco *Alta*, October 5, 1869, sums up the situation in these words:

> The mining counties are generally in a very unfortunate financial condition. Some of them are on the verge of bankruptcy; most of them have to levy oppressive taxes to pay the interest on their debts, which were incurred in flush times, while the majority of the population was composed mostly of placer miners who had no permanent residence, paid few taxes, and were indifferent about the remote future. The mines were exempted from taxation when they were in the most luxuriant condition, and when a burden that is now oppressive would scarcely have been felt. Thus it is that counties with poor public buildings, few good public wagon roads, no railroads, and in fact, with no property worthy of notice, are overwhelmed with debt.

The following table, taken from the committee's report, shows the financial condition of the most important mining counties:

County	Total debt	Portion funded	Population	Valuation of property, 1867	County tax rate
Alpine	$10,000.00	$10,000.00	.....	$450,000.00	.....
Amador	99,152.10	.....	10,500	2,046,943.00	1.90
Butte	277,513.00	200,000.00	9,350	5,128,358.00	.....
Calaveras	206,240.00	191,240.00	10,732	1,373,496.00	4.00
El Dorado	262,715.74	187,573.04	16,000	2,931,938.00	.....
Mariposa	47,759.00	5,050.00	4,170	1,237,470.00	.....
Mono	15,000.00	.....	700	259,665.00	.....
Nevada	22,033.00	.....	16,560	4,847,287.00	0.62
Placer	253,340.00	253,340.00	12,000	4,105,388.00	1.12
Sacramento	702,560.00	412,300.00	23,000	9,473,199.00	1.50
Sutter	5,595.90	.....	5,100	1,732,026.00	1.37
Trinity	70,000.00	.....	2,200	613,401.00	1.80
Tuolumne	115,292.91	34,300.00	14,000	1,320,505.00	3.67
Yuba	187,400.00	183,400.00	10,420	4,150,500.00	.....

The greater part of the debt was incurred through the prosecution of criminals, the construction of toll roads, and aid to railroad companies, either in the form of subsidies or stock subscriptions. The investments made by the counties, in nearly all

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instances, proved, as stated elsewhere, a failure. The Sacramento *Union* championed the cause of the mining counties and argued that the state should assume at least a portion of their debt, inasmuch as the mines were the primary cause for the development of California, and because the state until recently had prohibited the counties from taxing mining claims, and allowed to the counties but one-half of the foreign miners' license tax, though they had to pay the entire cost of prosecuting criminals.

The legislature, however, could not see its way clear to assume the debt of a part of the counties and not of all. To do the latter would have impaired the credit of the state. To relieve the mining counties, the legislature, in 1868, amended the foreign miners' license tax to the effect, as stated above, that all should be paid into the county treasury for the benefit of the county in which it was collected. The code of 1872 surrendered to the counties all of the license taxes. With these changes in the state revenue laws all the counties except Calaveras were able to meet their obligations. For the benefit of this county an act of March 20, 1872, appropriated $100,000 out of any money in the general fund of the state treasury not otherwise appropriated, for the purchasing and redemption of the bonded indebtedness. This was in the nature of a loan to the county of Calaveras. The supervisors of said county were required by statute to levy annually a tax of not less than ten cents, nor more than twenty-five cents, on every one hundred dollars worth of taxable property, until the money was repaid.[51]

11. The State Debt

The total state debt, according to the controller's report for the fiscal year closing June 30, 1860, was $4,297,664.33. Of this amount $3,824,000 was funded under the act of April 28, 1857, while $181,421.77 was to be funded under the act of April 30, 1860, and $292,242.56 constituted the war debt under the act of April 25, 1857. A year later the funded debt amounted to

[51] The bonds were to be deposited with the county auditor and examined by him, the chairman of the board of supervisors and the county treasurer. After they were examined they were forwarded to the state treasurer and examined by the governor, the secretary of state and the state treasurer.

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$4,244,148.33. In 1862, the funded civil debt was $3,926,000. On December 1, 1862, there were $610,004.28 of war bonds, coupons and claims outstanding. Of this amount the federal government assumed $229,000. On June 30, 1863, the funded civil debt was $3,819,000, composed of $3,620,500 worth of bonds issued under the act of April 28, 1857, and $198,500 under the act of April 30, 1860. At this time the war debt was $804,151.58.

On July 1, 1865, the state debt was $4,974,953.69. Of this amount $4,184,500 was funded, $790,453.67 unfunded. From the total debt we should, however, subtract $240,822.00, cash on hand, leaving a net state debt of $4,734,131.91.

One year later, July 1, 1866, the funded state debt was $4,390,000, showing an increase of $205,500. Of the bonds of 1857, $172,000 were redeemed and $31,000 placed to the credit of the school fund. Of the 1860 bonds $11,000 were redeemed. During the two years there were issued soldiers' relief bonds to the amount of $351,500 and soldiers' bounty bonds to the amount of $235,000. On January 6, 1866, the state treasury redeemed $45,000 worth of soldiers' relief bonds and on January 30, 1866, $184,000 of the soldiers' bounty bonds.

On July 1, 1867, there were outstanding $3,314,000 of the 1857 bonds, $272,000 having been redeemed on April 18, 1867; $177,000 of the funded debt of 1860, of which $10,500 were redeemed April 18, 1867. During the year soldiers bounty bonds to the amount of $152,000 were redeemed; $1,265,000 of soldiers' relief bonds were issued, and $12,500 redeemed. The total funded debt, July 1, 1867, was $5,115,500, while on November 1, 1867, it was $5,204,292.73, the increase being caused in part by $77,792.73 of controller's warrants charged against the capitol fund and $15,000 soldiers' bounty bonds issued on July 15, 1867.

This was the high-water mark of state indebtedness during the period from 1860 to 1872. After 1867 the state debt gradually declined. During the two years following there were but $35,000 of the soldiers' bounty bonds issued. On the other hand, the state redeemed $634,000 of the funded debt bonds of 1857, $18,500 of the funded debt bonds of 1860, $83,000 of the soldiers' relief bonds, and $343,000 of the soldiers' bounty bonds, which redemptions reduced the funded debt to $4,068,000 on No-

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vember 1, 1869. To this should be added the outstanding warrants against the capitol fund amounting to $250,879.93, and $3,571.10 against the military fund, making the total debt of the State of California $4,342,451.03. During the next two years the funded debt was reduced to $3,462,000—the total to $3,829,301.80.

On April 2, 1870, Governor H. H. Haight approved an act providing for the payment or refunding of the state debt. This act appointed the governor, the controller and the treasurer as a board of loan commissioners to carry out its provisions. The loan commissioners were authorized to issue and sell not more than $3,700,000 of 6 per cent state bonds. None of the bonds were to be sold for less than ninety-one cents on the dollar. The proceeds from the sale of the bonds had to be applied to the payment of the following bonds, in the order of their issuance:

1. The outstanding bonds issued under the act of April 28, 1857.
2. The outstanding bonds issued under the act of 1861.
3. The outstanding soldiers' relief bonds.
4. The outstanding soldiers' bounty bonds.

Section 8 of the act permitted the loan commissioners to exchange any of the bonds referred to for bonds authorized by this act, at the rate of ninety-three cents on the dollar, par value, but no bonds were to be issued for less than $500.00 nor a fractional part of $100.00. To pay the principal and interest within twenty years, section 9 of the act levied annually, after the bonds were issued, such a rate of tax on each $100 worth of taxable property as would produce annually, for the first five years, an amount equivalent to 7 per cent of the amount of bonds issued; for the next ten years, 12 per cent of the amount of bonds issued, and thereafter, until all the bonds should be paid, 15 per cent of the amount of bonds issued. The tax rate was computed by the controller and by him certified to the county auditors, who were to enter the rate on the assessment rolls of their respective counties. The receipts from this bond tax were applied first to the payment of interest, second to the payment of the principal, except that during the first five years that the act was in force the surplus remaining after the payment of the interest was paid into the general fund. If at any time the money in the interest

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fund was not sufficient to pay the interest, the state treasurer could draw on the general fund. Section 11 of the act provided for the gradual redemption of the bonds. If at any time after the first five years there remained a surplus of $10,000 in the interest and sinking fund after the payment of the interest, the state treasurer was to advertise the amount and call for sealed proposals offering bonds for redemption. Should not enough be presented to reduce the surplus below $10,000, he was to advertise in order of their issuance the bond subject to redemption. If these were not presented within three months from the date of the expiration of the advertisement, they ceased to draw interest, and the money was held as a trust fund in the state treasury.

This act was subsequently ratified by the people and the state debt refunded. By doing so, the supporters of the law maintained that it offered the opportunity to secure an immediate reduction in the state rate of taxation equal to fifteen and three-fourths cents; that it furnished bonds of the state to the school fund for investment, instead of seeking securities elsewhere. Opposed to these advantages was the difficulty of securing at once the exchange of the old bonds and the desirability of extinguishing the state debt.

According to a statement of the controller published in 1873, the state issued, under the various acts, between 1857 and 1872, bonds to the amount of $6,692,500 and paid as interest thereon $4,216,295.39.

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CHAPTER IV

A PERIOD OF UNREST, 1872–1880

1. Speculation in Mining Stock

The years from 1872 to 1880 not only witnessed the achievement of desired reforms but likewise unrest, agitation and excitement. It was during this period that the speculation in mining stocks reached its zenith. The collapse of a mining boom in 1863, and of another in 1872, when the value of silver stocks declined $60,000,000 in ten days, was not sufficient to shake the faith of Californians in the Comstock Lode. In 1873, in spite of the depression in 1872, the Virginia Consolidated Mining Company began to distribute $300,000 per month among its stockholders. In 1874 Philip Deidesheimer, an expert who was well acquainted with the Comstock Lode, said: "I assert that there is already shown in the two mines, California and Consolidated Virginia, $1,500,000,000 of ore. I make the assertion, and am willing to stand by it. I think it will be perfectly safe to say that the ore will average $200 per ton; I have examined drifts 150 feet in ore that averaged, ton for ton, as it was taken out, $500. I should say that the Consolidated Virginia and the California are worth at least $5,000 per share; that is, I have no doubt but that amount of money will be paid out in dividends. I have been mining twenty-four years, or most of my lifetime. I am very careful about my statements."[1] This statement, supplemented by the annual report of Superintendent Fair, once more electrified the masses who now became anxious to share in the promised dividends. The shares of stock rose $10, $20, $30 a day. Of the scenes that followed, Bancroft says: "The scenes at the stock exchanges at this period and for the first weeks of 1875 were weird in their excitement, the brokers crying one to another, like the unseemly harpies of Dante's hell, every cry carrying the Comstock higher. Not only at the exchanges,

[1] Bancroft, *History of California*, vol. 7, p. 675.

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but on the street, the wild bidding for fortune's favors went on, and at almost every dining-table in the city the day's advances in stock were canvassed anew."[2] In January, shares in the California mine sold at $780, while the selling price of the Consolidated Virginia was above $700 per share. These prices exceeded the real value of the properties. As soon as signs of exhaustion of the mines appeared, the inflated values declined rapidly. In February the values of the shares of stock in the California dropped from $84,240,000 to $24,840,000. The entire Comstock values declined over $100,000,000.

The business depression caused by the depreciation of mining stock was intensified when on August 25, 1875, the Bank of California temporarily closed its doors. This was at the time the largest monetary institution on the Pacific Coast. It had been closely associated with the development of the Comstock mines. At one time it was alleged that the bank held $25,000,000 worth of property as security, and controlled the mining operations in California and Nevada. The "hard times" which followed were as added fuel to the flames of discontent and denunciation. Farmers organized as Patrons of Husbandry renewed their attack on railroads and "special interests." The laboring classes, organized as a Workingmen's Party, under the direction of Dennis Kearney, resolved to liberate California once for all from the grasp of the capitalist and monopolist. We shall speak of the growth and power of the Patrons of Husbandry and the Workingmen's Party in connection with the constitutional convention of 1879.

2. The Code of 1872

In his annual report, dated December 15, 1859, Attorney-General Thomas H. Williams advocated the appointment of a commission to codify the laws of the state. In his report of December 15, 1860, he said:

> The necessity of such a commission must be manifest to all who have given any attention to the character and nature of our general statutes.
>
> The delays and difficulties attendant upon ill-digested legislation has cost this state more than the expenses of many such commissions,

[2] Bancroft, *op. cit.*, p. 676.

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and yet the injury sustained by the state as such has not been a tithe of that of her citizens.

The legislature, however, ignored the recommendations of the attorney-general. In his annual message, dated January 7, 1863, in speaking of the subject of special legislation, Governor Stanford said:

Let the actual needs of the state at large be ascertained, and general laws passed to meet them; let as much of our legislation as is safe to trust to local government be transferred to them; let the laws already passed be revised and codified, and the result will be that legislation will be greatly simplified, the people will better understand the laws under which they live, and the sessions of the legislature will be much shorter and less expensive.

All who have occasion to examine into the statutes of California can not but be deeply impressed with the state of wild confusion into which they have fallen. Such is their condition that no person, not versed in law, can with any certainty of correctness turn to the pages of our statute books to ascertain what the law is. . . . The bar and the bench find it alike difficult to extract order out of this wild scene of statutory confusion and chaos.

Particularly did Governor Stanford's statement apply to the revenue law. But it was not until 1868 that the legislature passed an act providing for the revision and compilation of the laws of California. An act of March 28 of that year appointed J. B. Harmon, John Currey and Henry P. Barker as a commission to revise and codify the laws of the state. They failed to complete their task within the allotted time—June 28, 1868, to July 1, 1869—and an act of April 4, 1870, provided for a second code commission consisting of three members appointed by the governor.

The powers and duties of this commission as prescribed by section 2 of the act of April 4, 1870, were:

To revise all the statutes of this state, including those enacted at the present session of the legislature, and correct verbal errors and omissions, and suggest such improvements as will introduce precision and clearness into the wording of the statutes, and by a supplemental report thereto to designate the acts or parts of acts which, in the opinion of the commission, should be repealed, and prepare substitutes therefor when necessary; to recommend all such enactments as shall, in the judgment of the commission, be necessary to supply the defects of and give completeness to the existing legislation of the state, and prepare and present the bills therefor; to examine all special acts, and such as are confined

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in their operation to particular counties or cities, and to propose such measures as shall be necessary to give unity and uniformity thereto, and especially to propose, when possible, general acts which shall supersede the same; to arrange the statutes in the most systematic and convenient form, and furnish a complete and alphabetical list of the matters contained therein, which, in the future, may be made the basis of an index.[3]

The code commission appointed consisted of Creed Haymond, John C. Burch and John H. McKune. The task of the commission was no easy one. In the introductory note to the political code, the commissioners stated that the penal code, the code of civil procedure, and the political code embodied existing laws, with a few additions to give them completeness, arranged in convenient and logical manner. In regard to the civil code, they said that they took the civil code of New York and in place of the corresponding chapters inserted the laws of California and modified the rest so as to be in harmony with them.[4] The work of the commissioners was revised by Charles A. Tuttle and Sidney L. Johnson. Each code was then examined by a joint committee of the legislature and its adoption recommended. All the codes were adopted in 1872. In speaking of sections 3607 to 3899 inclusive of the political code, the joint committee on revision,[5] when making its report to the legislature, said:

Your committee have no hesitation in recommending the revenue law as it now stands in the political code. It is, as your committee believe, far superior to any act upon the subject that has ever been devised in this state. And we would recommend, upon the adoption of this code, the passage of an act putting the title relative to revenue and kindred provisions of the penal code into effect at once. We believe that under the law proposed in the code the rate of state taxation for the present year would fall to sixty cents on the one hundred dollars; that thousands of dollars would be saved to the citizens of the state, and at the same time the revenue be more effectually collected.

[3] *Statutes of California*, 1869–70, pp. 774–775.

[4] *Political Code*, Introductory Note, p. 5.

[5] Members of the joint committee of the legislature appointed to revise and examine the political code were:
Senate Committee: George Oulton, M. P. O'Connor, George Perkins, S. C. Hutchings, and William Irwin (chairman).
Assembly Committee: William R. Wheaton (chairman), J. K. Luttrell, J. A. Eagan, E. B. Mott, Jr., and W. N. DeHaven.

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3. The General Property Tax

The adoption of the political code repealed all the old revenue laws. The new law was in part based on the laws repealed, in part on the decisions of the supreme court of California, in part on the previous recommendations and suggestions of the state board of equalization, state controllers Watt and Green, and in part on public opinion. The code modified the definition of property, it extended and enlarged the powers of the state board of equalization; it introduced a new method for determining the tax rate; it required that all money collected from license and poll taxes be paid into the county treasury for the benefit of the county in which the money was collected.

a. The Base

Section 3607 read: "All property within this state, except the property of the United States, of the state, and of municipal corporations, is subject to taxation." The code defined certain terms and phrases as follows:

First. The term "real estate" includes:

1. The ownership of, claim to, possession of, or right to the possession of land;
2. All mines, minerals, and quarries in and under the land, and all rights and privileges appertaining thereto;
3. Improvements.

Second. The term "improvements" includes:

1. All buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land;
2. All fruit, nut-bearing, or ornamental trees and vines not of natural growth.

Third. The term "personal property" includes everything which is the subject of ownership not included within the meaning of the term "real estate."

Fourth. The term "full cash value" means the amount at which the property would be appraised if taken in payment of a just debt due from a solvent debtor.

The definition of the term "real estate" served as a legislative football during the remaining years of this decade. A law of March 30, 1874, defined "real estate" "as the ownership of, claim to, possession of, or right to the possession of land and trees, vines, growing crops, and plants, while growing and rooted in the ground, except plants and trees grown in nurseries

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for propagation and sale."[6] By an act of April 3, 1876,[7] the legislature, because of the opposition to the taxation of growing crops, repealed the act of March 30, 1874, and defined real estate in the same terms as did the code of 1872. On January 24, 1878,[8] this definition was again repealed and real estate defined so as to include "the ownership or claim to, possession of, or rights to possession of land and trees, vines, growing crops, and plants while growing and rooted in the ground, except plants and trees grown in nursuries for propagation and sale."

b. Assessment of Property

The code of 1872 required that all property, for purposes of taxation, should be assessed at its full cash value. Instead of leaving the individual assessor to determine the meaning of "full cash value," the law defined this phrase as stated above. Between the first Monday in March and the first Monday in July of each year, the county assessor had to ascertain the names of the taxable inhabitants and assess the property they owned, claimed, or had in their possession. From each person the assessor had to demand a statement, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person;
2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member.
3. All property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent;
4. The county in which such property is situated, or in which it is liable to taxation;
5. An exact description of all lands, improvements, and personal property, including all vessels, steamers, and other water-craft, and deposits of money or gold dust, and the names of the persons with whom such deposits are made, and the places in which they may be found;
6. All other facts required by the state board of equalization or by the assessor.

If any person, after demand was made upon him by the assessor, refused or neglected to furnish the above statement, the

[6] *Amendments to the Codes*, 1873–74, p. 142.
[7] *Ibid.*, 1875–76, p. 58.
[8] *Ibid.*, 1877–78, p. 64.

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assessor was required to note such refusal in the assessment book and estimate the value of the property, which valuation could not be reduced by the board of equalization. If the owner of any property was absent, the assessor was to estimate the value of the property and assess it in the name of the owner if known; if not, to "unknown owners." The law prohibited the assessment of the owner or holder of stock in any firm or corporation, if the entire capital or property of said firm or corporation was assessed. The property of firms and corporations was to be assessed in the counties where it was located. Ferries and toll bridges were to be assessed where the tolls were collected; registered vessels, where the law required them to be registered. If the vessel was registered outside the state, but plied in the waters of the state and the owner resided here, it was to be assessed in the county where the owner resided. The same applied to all boats and small water-craft, not required to be registered.

To assist the county assessors and to secure greater uniformity in the assessment of property, the state board of equalization issued a series of rules and regulations. Among others were the following:

Rule 5. Banking corporations, and all banks and banking firms or associations, or persons doing a banking business, must be assessed for the full amount of money, gold dust, or bullion on hand [except special deposits mentioned in Rule 4, *which refers to money, etc., placed in safe-deposit vaults,*]; and in addition thereto, under the head of solvent debts, all their loans, and all solvent debts due them, must be assessed at the several "full cash values" thereof, without any deduction on account of any indebtedness, and notwithstanding the creditors (or depositors, as they are commonly called) of such corporations, banks, banking firms, associations, or persons may have been, or may be, liable to be assessed for their said deposits or credit, as solvent debts due them.[9]

Rule 6. The term "solvent debts" includes all debts owing by any such institutions or persons as are mentioned in Rule No. 5, to their creditors or depositors, on account of money or securities loaned to or deposited with them (except special deposits, described in Rule 4), and such debts must be severally assessed at their full cash value, as solvent debts, to such creditors or depositors, or such other persons as at the time of assessment may be the owners or holders of such debts.[9]

[9] *Report of State Board of Equalization*, 1872–73, p. 86.

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Rule 23. A mortgage must not be assessed, but the debt secured by the mortgage must be assessed as a solvent debt, to the mortgagee or owner, in the county where he resides. Other solvent debts, money, gold dust, bullion, and personal property *in transitu*, must be assessed in the county where the owner resides.[10]

After the assessment for 1872 was completed, it was discovered that the total valuation of property had been increased from $267,868,126.76 in 1871 to $637,232,823.31 in 1872, or about 140 per cent. The valuation of personal property increased from $86,074,230.19 in 1871 to $219,942,323.46 in 1872, or 155 per cent. The bankers of San Francisco protested strongly against the assessment of deposits and solvent debts secured by mortgages, on the ground that such assessment amounted to double taxation. The controversy over the assessment of this species of property antedates the adoption of the code in 1872. In the case of the *People* v. *McCreery*, 34 Cal. 432 (1868) the court held "that a solvent debt secured by a mortgage was property within the meaning of the constitutional provision in respect to taxation, and as such was subject to taxation, as the property of the mortgagee, and that the lender could not complain of double taxation."[11] Following this decision, the legislature passed an act on April 4, 1870, which declared that: "No mortgage or lien given and held upon real estate, or the debts thereby secured, or promissory notes secured by mortgage, shall be assessed upon the books of any assessor, state, county or otherwise."[12]

The revenue provisions of the code repealed this act and defined personal property so as to include everything which was the subject of ownership and not included in the term real estate. As a result, money loaned at interest was again taxable. In *Lick* v. *Austin*, 43 Cal. 590, a mortgager complained that he was suffering from double taxation on his land. The court, however, held that he was taxed only upon the property in his possession, and that it was of no concern to him what taxes his creditor paid.

After the assessment of 1872, the board of supervisors of the City and County of San Francisco, sitting as a board of equaliza-

[10] *Report of the State Board of Equalization*, 1872–73, p. 90.

[11] C. C. Plehn, "The Taxation of Mortgages in California," *Yale Review*, May, 1899, p. 34.

[12] *Statutes of California*, 1869–70, p. 710.

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tion, ordered the cancellation of the following assessments[13] of solvent debts secured by mortgage:

Masonic Savings and Loan Bank	$365,000.00
Savings and Loan Society	7,968,740.00
Société Français d'Espargnes, etc	4,957,583.00
German Savings and Loan Society	2,629,021.00
Odd Fellows' Savings Bank	3,080,793.00
San Francisco Savings Union	4,227,940.00
Hibernia Savings and Loan Society	11,354.532.00
Land Mortgage Union of California	33,916.00
Security Savings Bank	313,962.00
Humboldt Savings and Loan Society	507,303.00
Total	$35,438,790.00

This action of the city and county board of equalization was declared void by the supreme court of California, October 16, 1872. On October 26th the court issued a peremptory writ of mandate, commanding the city and county auditor to place the assessments illegally cancelled on the duplicate assessment roll prepared for the tax collector. This the auditor did, but the banks refused to pay their taxes. When the tax collector proceeded to enforce the collection of the tax, by selling the property of the banks, he was enjoined by injunctions granted by the district court. Two cases were appealed, by agreement between the attorneys, to the supreme court. The first to come up for hearing was that of *The Savings and Loan Society* v. *Austin*, 46 Cal. 415. The decision of the court, in this and in the Hibernia Bank case, in so far as it effected the taxation of the solvent debts, is reviewed by Professor Carl C. Plehn, in these words:[14]

. . . . This was argued twice, and finally decided in the October term, 1873. Unfortunately the case itself did not directly involve the question of double taxation, as it turned merely on the technical question whether an injunction could be issued to prevent the collection of taxes illegally assessed. But by special request the court expressed an opinion on the question of double taxation.

In this decision it was acknowledged that the views previously expressed did not meet the real difficulty. None of those cases had decided "whether or not a tax on the mortgage debt is practically a tax on the

[13] *Report of the State Board of Equalization*, 1872–73, p. 15.

[14] C. C. Plehn, "The Taxation of Mortgages in California," *Yale Review*, May, 1899, pp. 39–41.

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property mortgaged; and whether, if each be separately taxed, it presents a case wherein the same value or subject-matter had been twice taxed."

The court, therefore, considered the matter as *res integra* before it. Two justices concurred in and two dissented from the opinion:

That if a debt for money lent and secured by a mortgage be taxed, and if the mortgaged property be also taxed, the same value and subject-matter has been twice taxed, and it presents a case of double taxation. In reaching this opinion the court referred to the "well-known fact that in a vast majority of cases the borrower is required to stipulate that he will pay the tax on the mortgage"; furthermore, "assuming that the borrower refuses to stipulate that he will pay the tax, *eo nomine*, on the mortgage, he pays it, nevertheless, in another form, to wit, in a higher rate of interest." In this particular case, however, the court was not called upon to intervene and could in fact grant no relief, as the taxes complained of had not yet been paid, and an injunction was not the proper remedy. The dissenting opinions were the same as those expressed in the previous cases. The injunctions that had been granted pending the decision were dissolved, permitting the collection of the taxes.

Thus the case of *The Savings and Loan Society* v. *Austin* really settled nothing. But it unsettled the previous decisions. Somehow or other the idea got abroad, between the first rendering of an opinion and the reopening of the case, that the court had definitely and finally declared that the taxation of solvent debts was unconstitutional. This was not the fact. Since the question of double taxation was not directly involved in the case, the concurrence of the other justices in the opinion of the court written by Mr. Justice Crockett did not, as the subsequent opinions clearly show, involve the endorsement of his view, expressed as an *obiter dictum*, that the case involved double taxation. The consequence of this erroneous idea was that for the next year the assessment of mortgages fell off remarkably. Nevertheless, a few days after the final decision, the court issued a writ of mandate on application of the state board of equalization to the auditor of the city and county of San Francisco, directing him to record the assessments involved in the case of *Savings and Loan Society* v. *Austin*.

In view of the unsatisfactory and inconclusive nature of the decision just reviewed, it is not surprising that the matter should come up again in the course of the next few years. It was in the January term, 1876, that the decision was rendered in the case of the *People* v. *Hibernia Bank*.[15] Here the decision had no uncertain tone. Four justices concurred; three, one of whom had previously been in opposition, wrote concurring opinions; only one dissented. The court declared: That credits are not property, in the sense in which the word "property" is used in the thirteenth section of the eleventh article of the constitution.

Thus after twelve years of almost constant litigation the supreme court reached the opinion that: To declare that it is the duty of the assessor to assess all "things in action" is to give a construction to

[15] 51 Cal. 243.

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the constitution which must lead to the grossest absurdities. That causes of action are dependent on too many contingencies to be capable of appraisement which shall accord with any rule of equality or uniformity of value, is too plain for argument. Chief Justice Wallace supported his change of opinion by the emphatic statement: "That a tax imposed upon credits, *in whatever form it be imposed,* must always be paid, *not by the creditor but by the debtor.*"[15]

According to this view, then, double taxation had existed in California, contrary to the constitution, for over twenty-five years.

c. *Equalization of Assessments*

The revenue act of 1872 provided for both county and state boards of equalization. The former was composed of the members of the county board of supervisors. When sitting as a board of equalization the board of supervisors could add or subtract from the valuation of property as returned by the county assessor, so as to make the valuation conform to the actual cash value. A reduction might be made, except in the following cases:

1. When the property owner failed to make a written application asking for a reduction in the valuation of his property.
2. When a person, seeking a reduction in the assessment of his property, refused to answer any question of the county board of equalization pertaining to the value of his property.
3. When the owner of the property refused to answer any question of the assessor at the time he was making the assessment; or neglected or refused to file a statement setting forth the property owned by him.

The powers and duties of the state board of equalization in 1870 were increased and extended by the provisions of the code. The board had to enforce the revenue law in a uniform and equal manner; to prescribe rules and regulations governing supervisors when equalizing assessments, and assessors when assessing property; to prepare and enforce the use of forms used for the asssessment of property; to equalize the valuation of property of the several counties of the state, fix the state rate of taxation between the fourth Monday in August and the first Monday in October; to visit as a board or as individual members the different counties

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of the state to ascertain how property was being assessed; to issue subpoenas for the attendance of witnesses or the production of public records in the custody of the county officers, and to report annually to the governor the assessed acreage in each county, the valuation per acre, the valuation of town and city lots, the value of each kind of personal property, and any other information relative to the assessment of property and the collection of revenue.

Whenever the state board of equalization discovered any property assessed above or below its full cash value, it was authorized to add to or deduct from (1) the value of the real estate, (2) the value of improvements thereon, (3) the value of personal property, (4) the amount of money, such a per cent as would make the valuation equal to the full cash value.

The state board of equalization immediately proceeded to enforce the law. The assessors had already begun their work when the code was adopted, but the assessments made were declared void and had to be remade under the new law. The board at once sent out to the different county assessors rules and regulations by which they were to be governed when assessing property. As stated before, the county assessors in carrying out the instruction of the state board of equalization valued the taxable property in 1872 at $637,232,823.31 as compared with $267,868,126.76 in 1871. The activities of the board did not remain unchallenged very long. In the case of *The Savings and Loan Society* v. *Austin* (46 Cal. 415) the plaintiff contended that the state board of equalization was an unconstitutional body, in that the members were not elected by the people, and in that, by its power to fix the state rate of taxation and to allow for the cost of collecting the state tax and for delinquencies, it was virtually performing the function of the legislature. The court, however, held by a vote of three to two that the state board of equalization was a means to administer that provision of the constitution which required "taxation to be equal and uniform." Furthermore the court held that the power to determine the state rate of taxation was not a delegation of legislative power, because the legislature meeting biennially could not very intelligently fix the rate of taxation.

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This decision was destined to be short-lived. In January, 1874, the supreme court in *Houghton et al.* v. *Austin* (47 Cal. 646) reversed the above-mentioned decision, by a vote of three to two, and held that section 3696 of the political code, in so far as it allowed the state board of equalization to ascertain and fix the amount to be allowed for the cost of collecting the state tax and for delinquencies, was a delegation of legislative power, and hence unconstitutional. The court also held that section 3693 of the political code, empowering the board to raise or lower assessments, was in violation of that provision of the constitution which required assessors to be elected by the electors of the counties or district where the property to be assessed was located.

Needless to say, the decision of the court was not happily received by the governor nor by the state controller. In 1874 the legislature amended the sections of the code held to be unconstitutional. Under the amendments the board could fix the state rate of taxation after allowing 12 per cent for delinquencies in, and for the cost of collecting the state tax; could add to or deduct from the value of (1) real estate, (2) improvements, (3) personal property except money and solvent debts, such a per cent as would raise or reduce the assessment to the full cash value of the property. The provision requiring the state board of equalization to fix the state tax rate under the restrictions specified was in accord with the court's decision, but not so the provision permitting it to increase or reduce assessments. From the records on hand it is difficult to understand why the legislature passed the amendment. It might be that it was with the hope that another case would come before the supreme court and that its last decision would be reversed. If this was the end in view, the expected did not happen. The court refused to reopen the case.

Governor Irwin, realizing the futility of continuing the state board of equalization under the existing conditions, recommended its abolition, and the establishment of an *ex-officio* board, composed of the governor, the attorney-general and the controller of state. An act of April 1, 1876, amended section 352 of the political code so as to be in accord with the governor's recommendation. At the same time the legislature amended section

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3692 of the political code, which defined the powers of the newly created ex-officio state board of equalization. By the latter amendment the board was deprived of its authority to equalize the assessment of property or to conduct investigations relating to the assessment of property. It thus became a mere statistical bureau and an advisory body which was to inform the governor of the financial condition of the state and to suggest legislation which would improve the revenue laws. It had no authority to enforce its instructions given to the assessors. It could not equalize assessments. It merely had the power to ferret out the existing inequalities and call them to the attention of the governor and the legislature.

d. State Rate of Taxation

As stated above, the code introduced a new method for determining the state rate of taxation. Heretofore the state legislature fixed the state tax rate before the assessors had completed the assessment. Under the new plan the legislature fixed the amount of money to be raised for the various state purposes, and required the state board of equalization, after it had equalized the assessment, to calculate the rate. The law of 1872 authorized the state board of equalization to allow for the cost of collecting the state tax and for delinquencies. Because of this provision, the supreme court of California, as stated above, held this part of the law to be unconstitutional, on the ground that it was a delegation of legislative power. To comply with the court's decision, the legislature since then has amended section 3696 of the political code from time to time, and determined the percentage which the state board of equalization was to allow for delinquencies in and the cost of collecting the taxes when it fixed the state rate of taxation. The tax rate established by the board had to be such as would raise the amount specified in section 3713 of the political code.

The actual and allowed delinquencies in, and cost for, collecting the state tax for 1874 to 1880 have been:

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Year	Actual cost of collecting	Actual delinquencies	Total cost of collection and delinquencies	Allowance for cost of collecting and delinquencies
25th fiscal year closing June 30, 1874.	7.5%	12.5%	20%	18%
26th fiscal year closing June 30, 1875.	6.25%	20.0%	26.25%	18%
27th fiscal year closing June 30, 1876.	5.8%	10.2%	16.0%	15%
28th fiscal year closing June 30, 1877.	5.5%	5.5%	11.0%	15%
29th fiscal year closing June 30, 1878.	5.47%	5.09%	10.56%	12%
30th fiscal year closing June 30, 1879.	5.6%	4.4%	10.0%	12%

The large percentage of taxes delinquent for 1873-4 and 1874-5 was caused by the litigation over the assessment of solvent debts and mortgages.[16]

The state tax rate for the twenty-third fiscal year (1871-2) was eighty-six and one-half cents on every one hundred dollars worth of taxable property. The total value of taxable property was $267,868,126.76. For the following fiscal year (1872-3) the rate was reduced to fifty cents on the hundred dollars. The assessment for the year, however, was $637,232,823.31, nearly two and one half times as much as the year before, while the rate was reduced only a little over one-third. The reasons why the tax rate was not reduced in proportion to the increase in the assessed valuation of property were as follows:

1. With the adoption of the code, the state lost about $420,000 per annum, by surrendering to the counties the license taxes, stamp taxes and poll tax.

2. The legislature of 1871-2 had been very liberal in its appropriations for educational and other purposes.

3. The legislature of 1869 and 1870, expecting that the state board of equalization would raise the assessment of property, reduced the tax rate. The board failed to raise the assessment; as a result the expenditures exceeded the receipts. The following legislature had to appropriate money to meet the deficiencies.

The state rate of taxation for the twenty-fifth fiscal year (1873–4) was fifty cents on the one hundred dollars. For the

[16] As compared with the above allowances we might add that in 1910 there were no costs except for treasurer's expenses for making settlement, and delinquencies, which average about 2½ per cent.

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following year it was raised to sixty-four and nine-tenths cents, but was reduced to sixty and five-tenths cents for 1875-6. For 1876–7 the rate was seventy-three and five-tenths cents; for 1877-8, sixty-three cents and for 1878-9, fifty-five cents.

The following table shows the several appropriations made by the state legislature and the corresponding tax rate as determined by the state board of equalization:

Fund	24th fiscal year 1872-3 Amount to be raised	Rate	25th fiscal year 1873-4 Amount to be raised	Rate	26th fiscal year 1874-5 Amount to be raised	Rate	27th fiscal year 1875-6 Amount to be raised	Rate
1. General fund	$1,190.000	0.28	$1,190,000	.262	$1,788,000	.359	$1,600,000	.316
2. School fund	240,000	0.048	240,000	.052	1,110,000	.223	1,330,000	.228
3. Interest & sinking fund, 1857	140,000	0.028	140,000	.03	336,000	.067	336,000	.066
4. Interest & sinking fund, 1860	9,000	0.001	9,000	.002	.....	.....	.....	.....
5. State capitol fund	200,000	0.04	200,000	.043	.....	.....	.....	.....
6. Military fund	60,000	0.012	60,000	.013	.....	.....	.....	.....
7. Soldiers bounty interest fund	43,000	0.008	43,000	.009	.....	.....	.....	.....
8. Soldiers' relief interest fund	25,000	0.005	25,000	.005	.....	.....	.....	.....
9. Pacific railroad fund	105,000	.021	105,000	.024	.....	.....	.....	.....
10. State normal school building fund	75,000	.015	75,000	.016	.....	.....	.....	.....
11. Insane asylum fund	.....	0.035	.....	.038	.....	.....	.....	.....
12. State capitol bonds, interest	35,000	.007	35,000	.006	.....	.....	.....	.....
Total	$2,122,000	$0.50	$2,122,000	$0.50	$3,234,000	$0.649	$3,266,000	$0.605

Fund	28th fiscal year 1876-7 Amount to be raised	Rate	29th fiscal year 1877-8 Amount to be raised	Rate	30th fiscal year 1878-9 Amount to be raised	Rate	31st fiscal year 1879-80 Amount to be raised	Rate
General fund	$2,220,000	.439	$1,618,000	.32	$1,320,000	.256	$1,450,000	.30
School fund	1,201,000	.234	1,300,000	.25	1,200,000	.233	1,250,000	.26
Interest & sinking fund	315,000	.062	315,000	.06	315,000	.061	315,000	.065
Total	$3,736,000	$0.735	$3,233,000	$0.63	$2,835,000	$0.550	$3,015,000	$0.625

e. Collection of Taxes

State taxes were to be collected by the county tax collectors, who were elected for two years. The county assessor had to collect the tax on all movable property when, in his judgment, the payment of the tax depended upon immediate collection, or when he had reason to believe that the owners of the property were about to dispose of it, or remove it, or when the property was

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so transitory, or business so unstable, as to render immediate payment necessary and proper. We have above mentioned the cost in per cent for assessing and collecting the state tax. It may be of interest to include here a table showing the payments to the different county officers for their services in assessing and collecting the state tax.

PAYMENTS TO COUNTY OFFICERS IN CONNECTION WITH STATE TAX*

	25th fiscal year (1873-4)	26th fiscal year (1874-5)	27th fiscal year (1875-6)	28th fiscal year (1876-7)	29th fiscal year (1877-8)	30th fiscal year (1878-9)	31st fiscal year (1879-80)
Assessors	$58,123.68	$63,256.92	$65,295.60	$73,965.26	$71,144.58	$64,254.07	$70,356.19
Auditors	25,420,11	31,029.83	30,944.18	34,840.24	30,428.50	27,639.57	29,679.21
Tax Collectors	51,664.61	49,366.37	43,026.38	51,729.62	37,529.85	31,714.87	34,506.07
Assessors as Tax Collectors	.....	.....	900.91	527.96	723.56	2,137.02	1,682.34
Treasurers	67,480.15	58,272.92	54,121.94	69,147.21	52,102.52	45,973.83	49,243.12
Total	$202,688.55	$201,926.04	$194,289.01	$230,210.29	$191,929.01	$171.719.36	$185,466.93

* Figures from the reports of the state controller.

These figures indicate only the aggregate cost to the state. They reveal nothing as to the confusion, complexity and irregularity of paying county officials for the services rendered the state. The controller of state, in his report for the twenty-seventh and twenty-eighth fiscal years (1875–77), said that it was impossible for him from any data in his office to ascertain definitely what the state was paying for the collection of taxes, or whether the state was receiving its share of the property tax. Former State Controller Green, in his report for 1873, stated that he was unable to comply with the code provision which required him to report the amount of the state tax charged to each county, the amount collected, and the amount delinquent. This he said was impossible, because the controllers preceding him had allowed the county auditors to compute the commissions allowed to the tax collectors and other county officials, and reported only the balance to the state controller.

There was no uniform method according to which the compensation of the county tax collector was to be calculated. In forty-six counties of the state, the tax collectors were allowed six per cent on the first ten thousand dollars of state and county tax collected, four per cent on the next ten thousand dollars, and

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two per cent on all sums above twenty thousand dollars, except that they were allowed no commission for collecting the state school tax. In Colusa County the collector was allowed three per cent on the first ten thousand dollars collected, two per cent on the second ten thousand, and one and one-half per cent on all amounts above twenty thousand dollars. In Humboldt County, for collecting the same amounts, the tax collector was allowed four, three and two per cent respectively; in Los Angeles County, four, two, and one and one-half per cent respectively. In El Dorado County the tax collector received six per cent on the first ten thousand dollars of state taxes collected, four per cent on the second ten thousand and two per cent on all amounts above twenty thousand, except that he was allowed no compensation for collecting the state school tax. In Sacramento County the tax collector received one per cent of all the money collected before delinquency and ten per cent after delinquency. In Solano County he received two per cent on all the taxes collected.

While these various allowances complicated matters, the primary source of confusion was the interpretation of the statutes. The law in force in most of the counties specifically stated that tax collectors were not to receive any compensation for collecting the school tax, yet some auditors were able to construe the law so as to allow them a compensation for this service. Some auditors would allow six per cent on the first ten thousand dollars of the state taxes collected, and also six per cent on the first ten thousand dollars of the county taxes collected; others would allow six per cent on the first ten thousand dollars of the state and county taxes collected. Some auditors would allow four per cent on the first twenty thousand dollars, instead of the second ten thousand dollars collected. Others would keep a separate delinquent tax account, and allow the six, four or two per cent on this, as if no other taxes had been collected. In many of the counties, the assessors, auditors, tax collectors and treasurers had been put on a salary basis. This, however, did not prevent the counties from collecting the fees referred to, so far as the state tax was concerned. The fees were not paid to the county officers, but were paid into the county treasury for the benefit of the county. State Controller Brown estimated that the fee system

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was costing the state $200,000 annually. Both he and his predecessor, State Controller Green, advocated in vain the abolition of the fee system.

f. Enforcement of the Collection of Taxes

The revenue law of 1872 provided that any property owner or agent who wilfully concealed, removed, or transferred any property in order to escape and evade taxation, became liable for an assessment not exceeding ten times the value of the property. Any property that was discovered by the assessor to have escaped taxation during the preceding year had to be assessed at double its value.

The law made every tax on personal property a lien on the real property which the delinquent taxpayer owned and to which he might acquire title after the duplicate assessment was filed with the tax collector.[17] Every tax on real property was a lien against the property assessed; and every tax due upon improvements, assessed to others than the owner of the real estate on which the improvement was located, was a lien both upon the real estate and the improvements. The liens attached from the first Monday of each year and were not removed until the taxes were paid.

Unless the tax was paid on or before the first Monday in January following the assessment, five per cent was added as a delinquency penalty. On or before the first Monday in February, the tax collector was obliged to publish the delinquent list and proceed to sell the property on which the taxes were not paid. The sale had to take place at the county courthouse, between ten o'clock A. M. and three o'clock P. M. at a date not earlier than twenty-one days, nor later than twenty-eight days, after the publication of the delinquent list.

4. Miscellaneous Receipts

The importance of the property tax in the revenue system of California (1872–79) is clearly shown by the following table:

[17] Amended March 30, 1874, so as to read "from and after the same became delinquent."

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TABLE SHOWING STATE RECEIPTS AND EXPENDITURES
1872–1879

Year	Receipts Property tax	Other sources	Total	Expenditures
1872	$2,023,775.21	$1,084,040.96	$3,107,816.17	$3,062,119.34
1873	2,350,911.02	1,441,704.97	3,792,615.99	3,524,093.24
1874	2,677,073.01	1,416,701.92	4,093,774.93	3,777,042.99
1875	3,243,581.34	1,569,344.86	4,812,926.20	4,769,816.83
1876	2,985,352.01	666,543.38	3,651,895.39	3,961,964.18
1877	3,948,032.16	601,226.14	4,549,258.30	3,785,111.35
1878	3,318,387.49	595,106.66	3,913,494.15	3,795,480.53
1879	3,006,474.45	537,136.32	3,543,610.77	3,544,361.63

The principal sources of revenue, other than the property tax, were the fees collected by the state board of harbor commissioners, the clerk of the supreme court, the insurance commissioner, the surveyor-general, the register of the land office, and the secretary of state, the receipts—principal and interest—received from the sale of public lands (school lands, swamp lands, overflow lands and tide lands); the interest on the state school and university bonds and money realized from the sale of bonds under the refunding act of 1870. In 1873 the receipts from the last-mentioned source amounted to $597,811.88; in 1874, to $487,-916.01 and in 1875 to $739,333.89. These figures are included in the amounts given above and explain for the most part the sudden drop in the miscellaneous receipts for 1876. Another cause of this decrease was the gradual decline in the amount of money received by the state from the sale of public lands. This amount is shown in the accompanying table:

RECEIPTS FROM SALE OF PUBLIC LANDS, 1872–1879

Year	Swamp and overflow lands	Tide lands, principal & interest	School lands, principal	School lands, interest	Total
1872	$1,927.86	$335,956.60	$99,912.50	$65,647.46	$503,444.42
1873	17,776.88	256,851.26	173,722.61	100,120.73	548,471.48
1874	19,021.62	281,622.53	185,871.82	102,517.79	589,033.76
1875	23,799.54	131,037.68	158,153.22	87,645.39	400,635.83
1876	6,167.22	40,344.59	101,221.26	59,315.91	207,048.98
1877	205.66	475.90	171,453.02	29,944.31	202,078.89
1878	4,575.22	.....	80,841.01	48,220.19	133,636.42
1879	26,888.88	.....	74,999.65	45,853.01	147,741.51
Total	$100,362.88	$1,046,288.56	$1,046,175.09	$539,264.79	$2,732,091.32

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The fees collected by the various state officials show a steady increase, the most important being the fees collected by the harbor commissioners, which increased from $117,026.48 in 1872 to $243,878.17 in 1879. The interest on school bonds increased from $79,345.00 in 1872 to $129,301.18 in 1879; the interest on university bonds from $4,025.00 in 1872, to $74,327.00 in 1879.

5. The Poll Tax

Though the law of 1872 required all the poll taxes to be paid into the county treasury for the benefit of the county, yet the tax was levied and collected under a state law. Every male inhabitant of the state, over twenty-one and under sixty years of age, except officers, musicians and privates of the California National Guard, had to pay a two-dollar poll tax. An act of December 23, 1873, raised the poll tax to three dollars if not paid on or before July 1 of each year. By an amendment of April 1, 1878, the officers and members of unpaid regularly organized fire companies were exempt, but the officers and musicians of the California National Guard were obliged to pay the two-dollar poll tax. The assessor was to collect the poll tax between the second Monday in February and the first Monday in July of each year. For his services he was allowed fifteen per cent of the amount collected. As under the previous laws, he had the authority to seize and sell any personal property belonging to any person who was liable to pay poll tax and refused to do so.

6. Retrenchment in State Expenditures

During the period from 1872 to 1880, there was a continual demand for retrenchment in state and county expenditures and for a material reduction in state taxation. The creation of the state board of equalization and the adoption of the revenue law of 1872 did bring about greater justice and equality in the distribution of taxation, but failed to lower the total amount of taxes charged against the tax collectors. The figures given below, which are taken from the reports of the state controller, show that while the valuation of property for taxation increased from $267,868,126.76 in 1871–2 to $637,232,823.31 in 1872–3,

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and the state rate of taxation reduced from 86½ to 50 cents on the hundred dollars, and the average county rate from $1.745 to $1.41, the total state taxes charged against the tax collectors increased from $2,342,181.27 in 1871–2 to $3,185,895.78 in 1872–3, and the total county taxes from $4,850,876.37 to $6,300,493.54. In 1871–2 the total tax charged against the tax collectors for state and county purposes was $7,193,057.64; in 1872–3 $9,486,389.32,[18] representing an increase of $2,293,331.68.

In his report for the twenty-third and twenty-fourth fiscal years, Controller J. J. Green requested the legislature to scrutinize carefully the general appropriation bill, to reduce the salaries of the state officers, in order that the rate of taxation might be reduced and the "growth, prosperity and development of the state" not retarded. As a result of the agitation for lower taxation, the legislature proposed a series of amendments[19] to the state constitution, but these were rejected by the people. Neither

[18] These figures refer only to the property tax. Controller of State J. J. Green estimated that if the taxes levied by the various license-tax laws and the poll-tax law were included, the total amount contributed by the people of California toward the support of the state and county governments would equal $10,500,000, or $18.74 per capita per annum.

[19] The act of March 30, 1874, proposed the following amendments to article viii (referring to taxation) of the state constitution:

"Sec. 1. Taxation shall be equal and uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and taxes shall be levied and collected under general laws. All property subject to taxation shall be listed for that purpose at its cash value, to be ascertained as provided by statute. All things, and choses in action, subject to ownership, sale, devise, descent, distribution, or assignment, shall be deemed property, for purposes of taxation. Property owned by the United States, by this state, or by a municipal corporation under the laws of this state, shall be exempt from taxation.

"Sec. 2. The present bonded debt of the state is valid, and the legislature shall provide by statute for the payment thereof.

"Sec. 3. The legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall singly, or in the aggregate, with all previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrection, or for the purposes of carrying out a general system of irrigation, or to provide the means of payment, if it becomes necessary to condemn to the use of the state the railroads within its limits.

"Sec. 4. The governor, controller and treasurer, shall jointly, during the first week after the organization of the legislature, exhibit to the Assembly detailed estimates of the sums of money necessary to be raised and expended during the two years next after the first day of July of that year.

"Sec. 5. The controller shall determine, and publish, when the limit of the public debt, allowed by this Constitution, has been reached, and all other or further obligations of the state shall be void.

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the salaries of the state officials, nor the general appropriation bill, were reduced.

During the political campaign of 1875, the principal issue was that of state taxation. A plank in the Republican party platform of 1875 read in part: "That the burden of taxation should not only be reduced, but the laws concerning assessment and equalization should be so revised and amended as to better insure a just division of that burden among those who enjoy the benefits of government."[20] The Peoples' Independent Party pledged itself to inaugurate a general policy of retrenchment and reduce the salaries of state officers. The Democratic party was strongly opposed to any system of taxation which violated the spirit of the constitution. The manner in which the campaign was conducted is succinctly set forth by the "Special Committee of the Senate on Retrenchments,"[21] in these words:

> That retrenchment is practicable we assume to be conceded. Every political platform, every candidate for office, every printed journal, and all the taxpayers, have united in a universal and harmonious cry for lower taxation. The question overtopping all others in the political contest of eighteen hundred and seventy-five was the one of cheaper government. The taxpayer demands it, and his right to do it cannot be questioned; the office-hunter and office-holder have admitted its justice and practicability, and the question now occupies the relation of a contract, which good faith insists shall be fairly and honestly executed, and which is especially environed by the solemn and repeated pledges to inaugurate a just and reasonable, but at the same time a radical, searching and unflinching reform.

As has happened time and again, the pre-election promises were forgotten as soon as the committee from whose report we have just quoted was appointed. Its searching investigations and

"Sec. 6. Neither the credit of the state, nor of any municipal corporation authorized under the laws thereof, shall be pledged or loaned to any individual, company, corporation, or association; nor shall the state, or any municipal corporation, become a joint owner of or a stockholder in any company, association, or corporation; nor shall the state, or any municipal corporation become bound to pay any bond, or interest on any bond, or other obligation, of any individual, association, or corporation; and no county or municipal corporation under the laws of this state, shall incur any obligation to raise money for the construction of any work not exclusively under the control of public officers.

"Sec. 7. The legislature must, by statute, provide for a state board of equalization, and fix its power and duties." *Statutes of California*, 1873–74, pp. 930.

[20] Davis, *Political Conventions in California*, p. 336–337.

[21] Appendix to *Journals of Senate and Assembly*, vol. 5, 21st session.

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recommendations were practically ignored by the legislature and no permanent policy of economy was initiated. For the fiscal year ending June 30, 1876, the amount of state and county taxes charged against the tax collectors was $9,926,638.10; for 1876–7, $11,749,970.52; for 1877–8, $10,458,743.11 and for 1878–9, $11,408,032.60.

The table on the following page shows the valuation of property for purposes of taxation, the state tax rate, the amount of taxes charged against the tax collectors and the amount of taxes delinquent from 1872 to 1879 inclusive.

7. The State Capitol

Because hereafter we shall refer to the state capitol bonds it seems advisable to say a few words at this place about the construction of the state capitol.[22] An act of April 18, 1856, provided for the erection of a state capitol and appointed a board of capitol commissioners composed of State Controller Whitman, Secretary of State Douglass, and Mr. G. Griswold. The board was authorized to let contracts for the construction of a building which should not exceed $300,000 in cost, and to issue thirty-year bonds if necessary. A contract for $200,000 was let to Joseph Nougues, but when he demanded payment for work done, the board of capitol commissioners refused to sell state bonds because of the decision of the supreme court, declaring the state debt to have been incurred in violation of the constitution. Nougues' contract was cancelled and operations suspended. In 1860, Governor Weller recommended the immediate construction of a $100,000 capitol building. A law subsequently enacted fixed the maximum cost at $500,000. The same act created a board of capitol commissioners composed of the governor, the state treasurer, the secretary of state, and Messrs. A. C. Monson and Alfred Redington. This board let a contract to Michael Fennell. Soon after beginning the construction of the building Fennell became insolvent. An equitable settlement was made with him and a new contract let to Messrs. Blake and Connor. These contractors likewise were unable to finance the project. The legislature now decided to take direct

[22] See *California Blue Book*, 1909, pp. 714–723.

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TABLE SHOWING VALUATION OF PROPERTY, AMOUNT OF TAXES CHARGED AGAINST TAX COLLECTORS, AND AMOUNT OF TAXES DELINQUENT, FOR THE PERIOD FROM 1871 TO 1879 INCLUSIVE

Fiscal year	Valuation of Property			State tax rate	Amount of taxes charged against the tax collector			Delinquent state taxes		
	Real	Personal	Total		State	County	Total	On Real Property	On Personal Property	Total
1871–2	$181,793,896.57	$86,074,230.19	$267,868,126.76	.865	$2,342,181.27	$4,850,876.37	$7,193,057.64	$126,006.28	$111,903.80	$237,910.08
1872–3	417,290,499.85	219,942,323.46	637,232,823.31	.50	3,185,895.78	6,300,493.54	9,486.389.32	270,700.03	373,786.09	644,486.12
1873–4	409,384,299.00	117,815,274.00	527,199,573.00	.50	2,642,560.08	5,890,693.39	8,533,253.47	116,267.95	65,036.65	686,719.46*
1874–5	400,210,867.00	207,021,363.00	607,232,230.00	.649	3,968,590.45	7,639,724.47	11,608,314.92	196,216.29	540,418.00†	737,368.63‖
1875–6	418,840,023.00	199,243,292.00	618,083,315.00	.605	3,739,093.99	6,187,544.11	9,926,638.10	210,973.74	454,371.94	665,345.68
1876–7	454,641,311.00	140,431,866.00	595,073,177.00	.735	4,372,019.22	7,377,951.30	11,749,970.52	192,227.99	271,463.28	463,691.27
1877–8	458,172,198.00	128,780,824.00	586,953,022.00	.63	3,697,803.75	6,760,939.36	10,458,743.11	211,886.97	214,256.64	426,143.61
1878–9	466,273,585.00	118,304,451.00	584,578,036.00	.55	3,215,179.19	8,192,853.41	11,408,032.60	221,441.25	146,310.09	367,751.34

* None charged to City and County of San Francisco, under real and personal property, but $505,414.86 included in the total.

† Delinquent tax in City and County of San Francisco; on real property, $76,178.79; on personal property, $437,659.23; total, $514,572.36.

‖ Includes $734.34 added by auditor on account of erasures discovered by him.

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charge of the work. An act of March 27, 1863, levied an *ad valorem* tax of five cents on every one hundred dollars worth of taxable property. In 1865, the state capitol tax was increased to ten cents. But this law did not yield enough revenue to assure the rapid construction of the capitol. In 1869, Governor H. H. Haight, in his annual message, estimated that $381,280 was needed to finish the building. To expedite matters the legislature by an act of April 4, 1870, authorized the state treasurer to prepare and sell $250,000 worth of fifteen-year seven per cent bonds. The proceeds from the sale of these bonds were to be used to pay the expenses incurred by the state board of capitol commissioners, after January 1, 1870, in finishing the capitol and securing suitable grounds for the governor's mansion. The $250,000 proved to be insufficient. On March 28, 1872, a second $250,000 fifteen-year seven per cent bond issue was authorized. Each of the bond acts levied an annual *ad valorem* tax of one and one-half cents on every one hundred dollars worth of taxable property to pay the interest and redeem the bonds. According to the report of the controller, the state from 1865 to 1875 expended for constructing the state capitol the following sums:

1866	$119,796.47	1871	$280,306.08
1867	109,249.29	1872	496,564.30
1868	298,915.73	1873	374,127.91
1869	325,491.77	1874	180,043.32
1870	348,670.68	1875	60,662.06

8. The State Debt

The funded debt on June 30, 1873, amounted to $3,796,500. In addition there were outstanding controller's warrants to the amount of $310,635.02. The total state debt was $4,107,135.02. The funded debt was composed of the following items:

Seven per cent bonds of 1857 outstanding	$1,587,500
Seven per cent bonds of 1860 outstanding	101,500
Soldiers' relief bonds outstanding	110,000
Seven per cent state capitol bonds of 1870 outstanding	250,000
Seven per cent state capitol bonds of 1872 outstanding	250,000
Six per cent bonds of 1873 (issued under refunding act)	1,497,500
Total	$3,796,500

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Nearly half of this debt was held in trust by the state for the benefit of the school and university funds. The bonds held in trust for the state school fund were:

Seven per cent state capitol bonds of 1870	$236,000
Seven per cent state capitol bonds of 1872	115,000
Six per cent bonds of 1873	1,066.500
Total	$1,417,500

The bonds held in trust for the state university fund were:

Seven per cent state capitol bonds of 1872	$135,000
Six per cent bonds of 1873	261,500
Total	$396,500

During the next two years, the funded state debt was reduced very little. On June 30, 1875, it amounted to $3,654,500, while the unfunded debt was $187,884.54. Though the principal of the funded debt was not very much diminished yet the annual interest charge was considerably reduced. All but $170,500 of the seven per cent bonds of 1857 had been redeemed or were refunded under the refunding act of 1873 at six per cent.

On June 30, 1877, the total funded state debt was $3,411,000, the unfunded $76,708.73, and the total $3,487,708.73. The reduction of $243,500 of the funded debt was caused by the redemption of $157,500 of the bonds of 1857 and $86,000 of the bonds of 1860.

On June 30, 1879, the outstanding funded state debt amounted to $3,403,000, as shown by the following statement:

Six per cent state bonds of 1873	$2,801,000.00
Seven per cent state capitol bonds of 1870	250,000.00
Seven per cent state capitol bonds of 1872	250,000.00
Seven per cent soldiers' relief bonds	95,500.00
Bonds of 1857[23]	5,000.00
Bonds of 1860	1,500.00
Total	$3,403,000.00

[23] The bonds of 1857 and 1860 were called in and interest thereon ceased July 31, 1875.

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Of the funded debt $713,000 was in private hands, $1,737,500 was held by the state treasurer in trust for the state school fund, and $952,500 in trust for the university fund. The unfunded state debt on June 30, 1879, amounted to $83,170.25.

9. County Debt

The following table, the figures of which are taken from the reports of the controller of state, shows the total county debt from 1871 to 1880:

Year	Funded debt	Floating debt	Total debt
1871–2	$6,017,177.91	$2,142,192.09	$8,159,370.00
1872–3	7,523,686.41	2,517,607.60	10,041,294.01
1873–4	6,180,306.86	3,398,434.38	9,578,741.24
1874–5	7,780,773.83	3,302,283.33	11,083,057.16
1875–6	7,827,150.15	2,790,824.81	10,617,974.96
1876–7	8,481,665.06	3,125,110.55	11,606,775.61
1877–8	9,719,474.86	1,936,049.41	11,655,524.27
1878–9	9,979,301.86	1,901,616.39	11,880,918.25
1879–80	9,673,724.04	1,759,875.29	11,433,599.33

10. Summary

We have now reviewed the more important sections of the political code, which defined the powers and duties of the assessors, the state board of equalization, and the tax collectors. We have explained how the statute creating the state board of equalization was held by the supreme court to be unconstitutional; how the solvent debts secured by mortgages were exempted from taxation by the supreme court's interpretation of the statutes; how all attempts to secure a retrenchment in the state expenditures failed. There remains yet to be considered the genesis of the constitutional convention which met at Sacramento September 28, 1878; the circumstances under which it met, and the ends sought, in so far as these are related to the financial history of the state.

11. The Constitutional Convention, 1878–1879

To understand and appreciate the radical measures introduced by the constitutional convention of 1879, one must have a knowledge of the circumstances and conditions under which the convention was called; of the evils that were to be eradicated

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and remedied; of the hopes and aspirations of the dominant factions in the convention. Reference has already been made to the decisions of the supreme court of California, declaring the law creating the state board of equalization unconstitutional and holding that solvent credits and mortgages were not taxable. While the governor and state controller were opposed to these decisions, their opposition did not assume a formidable aspect. For the development of the radical ideas, one must look elsewhere. Between 1873 and 1877, local conditions gave birth to two new political parties: The Peoples' Independent Party, and the Workingmen's Party.

a. The Peoples' Independent Party

On September 24, 1872, delegates from the different farmers' clubs, organized throughout the state, met at Sacramento to discuss the promotion of the agricultural and industrial interests of California. On April 9, 1873, a second meeting was held in San Francisco. At this meeting resolutions were adopted condemning the railroads for charging exorbitant rates. The convention, by a vote of 38 to 20, favored the enactment of a law fixing the maximum freight rates. Should such a statute be unconstitutional, the delegates expressed themselves as favoring a system of state-owned railways.[24]

At about this time, the granger movement, which had attracted considerable attention throughout the middle west, reached California. The farmers' clubs were readily transformed into societies known as Patrons of Husbandry, a national organization whose purpose was to protect the farmer against the encroachment of the railroads and monopolists. On September 25, 1873, the Peoples' Independent Party met at Sacramento to nominate candidates for the various state offices. Their platform, unequivocally anti-monopoly,[25] won the support of the farmers,

[24] Davis, *Political Conventions in California*, p. 321.

[25] Sec. 14 of the platform adopted by the People's Independent Party, in 1873, read: "That all property, including solvent debts, as well as railroads and railroad property, should be taxed in proportion to its actual cash value, but taxation of solvent debts should be so regulated by law as to obviate all objections on the score of double taxation; and if this cannot be obtained by legislation under the constitution as it is, the fundamental law should be amended so as to accomplish such results."

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the Patrons of Husbandry and of more than enough other voters to elect their candidate, Mr. McKinstry, as justice of the supreme court.

During the following year occurred a gubernatorial election. It seemed as if Republicans, Democrats and Independents vied with one another in denouncing the railroads, land monopoly and excessive taxation. Mr. William Irwin, a Democrat, was elected governor on a platform favoring the calling of a state constitutional convention, the state regulation of all public utilities, the conservation of the waters of the state for irrigation purposes, and the equality of taxation as implied by the constitution, the exclusion of Chinese, the breaking-up of the land monopoly, and the discontinuance of all state and county subsidies.

In 1876 the legislature passed a bill calling a constitutional convention. On September 5, 1877, the people, by a small majority,[26] ratified the action of the legislature. An act of March 30, 1878, called for an election to be held on June 19, for the purpose of electing delegates to the constitutional convention, which was to be composed of one hundred and fifty-two members. Thirty-two members were to be elected at large, that is, eight from each of the four congressional districts then existing, and one hundred and twenty members, a number equal to the membership of the assembly and the senate, by districts as apportioned by the act.[27]

b. The Workingmen's Party

Between 1876 and June 19, 1878, some unforseen and unexpected events occurred. During the winter of 1876–7 there was very little snowfall in the mountains and scarcely any rain in the valleys. The farmers' crops were a failure. The mountain streams during the summer of 1876 were so low that the mining operations which had survived the collapse of the boom of 1875, mentioned at the beginning of this chapter, had to be

[26] In the constitutional convention it was argued that if one of the parties had not printed the words, "for a convention" on its regular ticket, the act of 1876 would have been defeated. See *Debates and Proceedings of the Constitutional Convention of the State of California*, vol. 2, p. 862.

[27] *Statutes of California*, 1877–78, p. 759.

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suspended. During the "hard times" which followed, thousands of unemployed flocked to San Francisco. On September 23, 1877, several thousand workingmen gathered on a vacant lot in front of the city hall and formed a temporary organization. On October 5 they elected Dennis Kearney[28] chairman of the organization. Under his leadership, the Workingmen's Party was organized. Within a period of nine months it was the political master of San Francisco, Oakland and Sacramento. The election of delegates to the constitutional convention came at a time when the newly organized party was at its zenith. Kearney and his co-workers refused to endorse the non-partisan ticket. On May 17, 1878, the Workingmen's Party met in convention in San Francisco, nominated candidates for election as delegates to the constitutional convention, and adopted, among others, these resolutions:

> Land grabbing must be stopped.
>
> Money, mortgages, and bonds must be taxed.
>
> Growing crops should not be taxed.
>
> Interest exceeding 7 per centum per annum for the use of money should be prohibited by law.
>
> No person should be taxed for that which he does not own; in other words, debts, due by the person assessed should be deducted from the assessable value of his property and should be assessed against the person to whom they are payable.
>
> The property of every person to an amount not exceeding $500 should be exempt from taxation.
>
> All farming lands of equal productive value should be equally taxed, without reference to the improvements.

The Workingmen's Party carried San Francisco and elected a few delegates in other counties. In all they elected forty-nine delegates out of one hundred and fifty-two. Upon joining forces with the delegates representing the Patrons of Husbandry, they had a majority in the convention which met at Sacramento on September 28, 1878.

c. *The Report of the Committee on Revenue and Taxation*

Shortly after the meeting of the convention it became very evident that the method of taxation was up for a general revision.

[28] Davis, *Political Conventions in California*, p. 365–386; see also Bryce, *American Commonwealth*, vol. II, part V, chap. XC, pp. 426–447.

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The committee on revenue and taxation[29] was bombarded with resolutions, amendments and suggestions. Delegates, in order to bring before the committee their panaceas for the prevailing evils, did not hesitate to express their ideas in the convention. The diversity of opinion is illustrated by citing a few typical cases. Mr. Beerstecher introduced a resolution favoring the exemption of the property of the blind, deaf and dumb up to $5,000; the wearing apparel and furniture of every family up to $300; the tools of laborers and mechanics up to $200 and farming implements up to $5,000. All property valued at more than $5,000 he would have taxed at a progressive rate. In his opinion, no county or political division of the state should be allowed to create a debt exceeding the income of the year in which the debt was incurred, unless approved by two-thirds of the electors. Mr. Tuttle advocated the exemption of $500 worth of every man's property. Moreover, he would have exempted all public property, schools and free charities; the rolling stock and roadbed of railroad companies; the types, presses and furniture of newspaper concerns and the pipes and other fixtures of water and gas companies. Mr. Swenson proposed this amendment: "Every person or corporation in this state shall pay an additional yearly tax, for state, county, and town purposes, of five per centum on each three hundred acres of land, over and above two thousand acres, owned or controlled by them." Numerous resolutions were introduced to tax money, credits and solvent debts. A few persons favored the exemption of mortgages from taxation. Mr. Dudley wanted the convention to provide for a state income tax.

[29] The committee on revenue and taxation was composed of the following delegates:

1. Mr. Henry Edgerton, Sacramento County (chairman).
2. Mr. Eugene Casserly, First Congressional District.
3. Mr. P. B. Tully, Fourth Congressional District.
4. Mr. Marion Biggs, Third Congressional District.
5. Mr. H. C. Wilson, Tehama County.
6. Mr. Henry K. Turner, Sierra County.
7. Mr. G. W. Hunter, El Dorado and Alpine counties.
8. Mr. J. M. Dudley, Solano County.
9. Mr. Jno. F. Miller, First Congressional District.
10. Mr. James Shafter, Third Congressional District.
11. Mr. W. S. Moffatt, San Mateo County.
12. Mr. C. Barbour, City and County of San Francisco.
13. Mr. David Inman, Alameda County.
14. Mr. W. H. Prouty, Amador County.
15. Mr. A. P. Overton, Third Congressional District.

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Mr. Tully thought the state should charge a corporation fee of $100 on the first $50,000 of stock issued by a corporation and $20 on every $10,000 additional stock issued.

Some delegates desired a state board of equalization, elected by the people; others, an ex-officio board with only advisorial powers.

On March 18, 1878, the committee on revenue and taxation submitted to the convention the following report:

Section 1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws.

Section 2. All property, including franchises, capital stock of corporations or joint stock associations, and solvent debts, deducting therefrom debts due to bona fide residents of the state, and excluding growing crops, private property exempt from taxation under the laws of the United States, public property belonging to the United States, or to this state, or any municipality thereof, and all property and proceeds thereof which is used exclusively for charitable purposes, shall be taxed in proportion to its value, to be ascertained as directed by law.

Section 3. Land and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality and similarly situated shall be assessed at the same value.

Section 4. Every tract of land containing within its boundaries more than one government section shall be assessed, for the purposes of taxation, by sections or fractional sections; and where the section lines have not been established by authority of the United States, the assessor and county surveyor shall establish the section lines, in conformity with the government system of surveys, as nearly as practicable. Each section or fractional section shall be valued and assessed separately; and for the purpose of subdividing and assessing, the assessor and surveyor, and their assistants, may enter upon any land within their respective counties.

Section 5. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroads and other quasi-public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county in which the property affected thereby is situated. The taxes so levied shall be a lien upon the property and security, respectively, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment, a full discharge thereof.

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Section 6. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax and assessment, be null and void.

Section 7. No corporation, except for benevolent, religious, scientific, or educational purposes, shall be hereafter formed under the laws of this state, unless the persons named as corporators shall, at or before filing the articles of incorporation, pay into the state treasury one hundred dollars for the first fifty thousand dollars or less of capital stock, and a further sum of twenty dollars for every additional ten thousand dollars of such stock; and no such corporation shall hereafter increase its capital stock without first paying into the state treasury twenty dollars for every ten thousand dollars of increase.

Section 8. No license tax shall be imposed by this state, or any municipality thereof, upon any trade, calling, occupation, or business, except the manufacture and sale of wine, spirituous, and malt liquors, shows, theaters, menageries, sleight of hand performances, exhibitions for profit, and such other business and occupations of like character as the legislature may judge the public peace or good order may require to be under special state or municipal control. But, the legislature may by law impose any license, or other tax, on persons or corporations owning or using franchises or corporate privileges.

Section 9. The legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars, for school purposes, on every male inhabitant of this state over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said state poll tax shall be paid into the State School Fund.

Section 10. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state shall be a party.

Section 11. The legislature shall provide by law for the payment of all taxes on real property by installments.

Section 12. The legislature shall by law require each taxpayer in this state to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

Section 13. Assessors and collectors of state, county, city and county, town, or district taxes shall be elected by the qualified electors of the county, city and county, town, or district in which the property taxed for state, county, city and county, town, or district purposes, is situated; provided, that vacancies may be filled by appointment, according to general laws.

Section 14. The state tax on property, exclusive of such tax as may be necessary to pay the existing state debt, shall not exceed forty cents on each one hundred dollars for any one year.

Section 15. A state board of equalization, consisting of two members from each congressional district in this state, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year one thousand eight hundred and seventy-nine,

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and every four years thereafter, whose duty it shall be to equalize the valuation of the taxable property in the state for the purposes of state taxation. The boards of supervisors of the several counties in the state shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of county taxation.

Section 16. The state board of equalization shall assess the value of all the property of all railroad corporations in this state. For the purpose of taxation, the value of all lands, workshops, depots, and other buildings belonging to or under the control of each railroad corporation, shall be apportioned by said board to the counties, cities and counties, cities, townships, and districts in which such lands, workshops, depots, and other buildings are situated; and the aggregate value of all other property of such railroad corporation shall be apportioned by said board to each county, city and county, city, town, or district in which its road shall be located, according to the ratio which the number of miles of such road completed in such county, city and county, city, town, or district shall bear to the whole length of such railroad.

Section 17. The value of the capital stock of a corporation shall be assessed in the county in which its principal place of business is located, and separately from all other property belonging thereto; and such stock shall be assessed at its market value when the assessment is made. The real and other personal property of such corporation shall be assessed in the several counties respectively in which the same is situated. The value of such stock, over and above the aggregate value of such real and other personal property, according to such assessment, shall be taxed in the county in which the principal place of business of such corporation is located; and the value of such real estate and other personal property shall be taxed in the several counties respectively in which the same is situate(d). The shares of stock belonging to the stockholders in such corporations shall be exempt from taxation; provided, that the provisions of this section shall not apply to railroad corporations.

Section 18. The legislature shall pass all laws necessary to carry out the provisions of this article.[30]

d. Discussion of the Report

The report occasioned a long discussion, both in the committee of the whole and in the convention. The members of the committee on revenue and taxation had failed to come to an unanimous agreement on all the sections. Dissenting members did not hesitate to express their opinions and ideas in the committee of the whole as the sections quoted were being considered. Fre-

[30] *Debates ana Proceedings of the Constitutional Convention of California*, vol. 1, pp. 450–451.

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quently they led the discussion and were successful in having certain sections amended or entirely rejected. Failing to accomplish their end in view in the committee of the whole, they carried their cause to the floor of the convention. When article XIII had finally passed its third reading in the convention it differed materially from the original draft as reported by the committee on revenue and taxation.

Let us note some of the changes which were made by the convention. Section 1, requiring all taxes to be uniform on the same class of subjects within the territorial limits of the authority levying the tax, was rejected by the convention after a prolonged discussion. It was opposed by Mr. Edgerton, chairman of the committee on revenue and taxation, because of its ambiguity and obscurity. In place of it, he wanted to insert the clause: "Taxation shall be equal and uniform throughout the state."[31] This was defeated in the committee of the whole, which, after discussing various proposals demanding that taxation shall be equal and uniform, adopted Mr. Barton's motion, which was a repetition of Mr. Edgerton's proposal, by a vote of 59 to 21.

When this section came up for its first reading in the convention, the question was again open for debate. Delegates took objection to the word "equal." Mr. Dudley expressed himself as being in favor of equal taxation, but not in favor of declaring that taxation shall be equal, for the reason that it never had been and never would be. Several members in the convention argued that the entire subject of equal and uniform taxation should be left in the hands of the legislature. They maintained that it was the word "equal" that was responsible for the decision of the supreme court of California in the case of *The People* v. *Hibernia Bank*. The convention voted not to concur in the report of the committee of the whole. On February 7, 1879, a motion to reconsider was lost, and the prospects of inserting in the constitution the phrase, "taxation shall be equal and uniform" defeated.

No section of the report of the committee on revenue and taxation caused so much discussion and misunderstanding as

[31] *Debates and Proceedings*, vol. 2, p. 836.

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number two, which required that all property, including franchises, capital stock of corporations or joint-stock associations and solvent debts, deducting therefrom debts due to bona-fide residents of the state, and excluding growing crops, public property and property of charitable institutions, should be taxed in proportion to its value. No one of the committee was able to interpret the section satisfactorily. The delegates attacked it from every conceivable point of view. Some objected to it, because it allowed certain exemptions; some, because it allowed a deduction of certain debts; some, because it did not define the term "property," others because it would tax mortgages; some, because it authorized the taxation of franchises and capital stock and would thus result in double taxation. For days the convention listened to speeches as meaningless, vague and indefinite as the section under examination. The delegates knew why they were at Sacramento but seemed incapable to penetrate the fog that had settled upon them. Finally Mr. Moreland[32] succeeded in presenting a more satisfactory proposition than the committee and paved the way for definite action. He maintained that the only reason for the convention was that the supreme court had decided that bonds and notes and mortgages were not property and therefore not subject to taxation under the then existing constitution. Therefore, he said, all that had to be done was to include these credit instruments in the constitution. To affect this, he offered the following substitute for section 2:

> All property in this state shall be taxed in proportion to its value, to be ascertained as provided by law. For the purposes of taxation, bonds, notes, mortgages, evidences of indebtedness, solvent debts, franchises and everything of value capable of transfer or ownership, shall be considered property. Growing crops, property belonging to the United States, to this state, or any political subdivision thereof, shall be exempt from taxation.

While this was far more definite than the original section, the committee of the whole failed to approve it. Half a dozen other substitutes, much the same as the one just quoted, were introduced and rejected by the committee of the whole. Finally it approved the following:

[32] *Debates and Proceedings*, vol. 2, p. 863.

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Laws shall be passed taxing all moneys, credits secured by mortgage or trust deed, or unsecured investments in bonds, franchises, and all other property, real and personal, according to its true value in money, except as hereafter provided; but the legislature may authorize, except in the case of credits secured by mortgage or trust deed, a deduction from credits of debts due to bona-fide residents of this state. Growing crops and such property as may be used exclusively for public schools, and such as may belong to the United States, this state, and county, or municipal corporation within this state, shall be exempt from taxation.[33]

Upon the first reading the convention concurred with this by a vote of 67 ayes and 60 noes. Immediately Mr. Moreland gave notice that he would present on the following day a motion to reconsider the question. The motion was made, at the stated time, and carried. Mr. Johnson offered an amendment differing from the above in that it allowed and made mandatory the deduction of debts due to bona-fide residents of the state. The amendment was lost, whereupon Mr. Terry offered the following:

All property in the state, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property" as used in this article and section is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things capable of private ownership, real, personal and mixed; provided, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this state, or to any county or municipal corporation within this state, shall be exempt from taxation. The legislature may provide except in the case of credits secured by mortgage or trust deed, for a deduction of debts due to bona-fide residents of the state.

At the second reading of the article Mr. Edgerton attempted to have the section amended so that the property of a county or municipal corporation located outside its jurisdiction would be subject to taxation. In offering the amendment he had in mind the case of the Spring Valley Water Company, which owned about 25,000 acres of the land in San Mateo County. Under the section as approved by the convention, this land would be exempt from taxation if the City and County of San Francisco were to purchase the holdings of the water company. The county of San Mateo would suffer an injustice. To break up the land monopoly, Mr. O'Sullivan proposed an amendment imposing a graduated tax on large tracts of lands. Both amendments were

[33] *Debates and Proceedings*, p. 905.

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lost, and except for a few minor changes, made by the committee on revision and readjustment, the section was adopted as reported by Mr. Terry.

The purpose of section 3, requiring lands and improvements to be assessed separately and cultivated and uncultivated lands, of the same quality and similarly situated, to be assessed at the same value, was to break up the land monopoly and to compel improvements on the land. In the committee of the whole a few minor amendments were suggested, but these were rejected and the section approved as originally reported.

Section 4, demanding that land be assessed in sections and fractions of sections, aroused a heated discussion. Mr. Edgerton argued that its adoption or a substitute of a similar nature was necessary to make section 3 effective. Large tracts of land, comprising 50,000 or 100,000 acres, could not be assessed as required by section 3 unless they were subdivided. Mr. Rolfe and others were convinced that its adoption would result in endless litigation. Mr. Schell opposed the section because of the large expense that would be incurred by sectionizing the Spanish and Mexican grants. This expense the surveyor-general estimated at, at least, a million dollars. The convention, however, refused to discard the section entirely. It was amended so as to read:

> Every tract of land containing more than six hundred and forty acres and which has been sectionized by the United States government, shall be assessed, for purposes of taxation, by sections or fractions of sections. The legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States government.

Section 5, stating that a mortgage, deed of trust, contract or other obligation by which a debt is secured, shall be treated as an interest in the property affected, won the approval of the members of the constitutional convention. Mr. Cross spoke of it in these words: "It seems to me, that of all the work of this committee none has been more efficient, or more serviceable, than this particular section." Several other delegates expressed themselves in a similar manner. Those who opposed the section did not find fault with it as worded, but desired to omit it entirely. To make it more complete Mr. Herrington offered an amendment, a proviso, "that if any such security or indebtedness shall

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be paid by any such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year." The proviso was accepted and the section as reported, together with this amendment, was approved and became a part of the constitution.

Section 6, declaring null and void every contract made after the ratification of the constitution by the people, whereby a debtor obligated himself to pay any tax on a mortgage, deed of trust, or other lien, was adopted as reported by the committee on revenue and taxation.

Section 7, proposing a corporation license tax, was rejected by the committee of the whole and by the convention. Mr. Edgerton, chairman of the committee on revenue and taxation, said that this section was included for a twofold purpose, namely, first, to secure revenue, second, "to cut up, root and branch," the wild-cat mining corporations. From the discussion that followed one might readily conclude that the latter was the primary end in view. Delegates from all parts of the state attacked the section on the ground that it did not discriminate between legitimate and illegitimate corporations, and that it imposed too heavy a burden on corporations needed to develop irrigation projects and other enterprises.

Section 8, prohibiting certain license taxes, was stricken out without much debate. Mr. Freeman opposed it because it did not deal with fundamental matters. Mr. Caples because it left everything in the hands of the legislature and thus was unnecessary.

Section 9, levying a poll tax of two dollars on every male inhabitant between the ages of twenty-one and sixty, was rejected by the convention on the first reading and reinstated after the second. In the committee on revenue and taxation it was opposed by Messrs. Dudley, Overton, Tully and Turner. Its champion was Mr. Biggs of the Third Congressional District. His primary reason for advocating a poll tax was that it would be a means to rid the country of the Mongolians, or make them contribute toward the maintenance of the government. As to Californians, he thought they would gladly pay the tax, because

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the proceeds were to be paid into the state school fund. From the discussions it is evident that there were three different factions in the committee of the whole. First, there were those who agreed with Mr. Biggs; second, those who desired to leave the entire question of the poll tax open for legislative action; and third, those who wished to insert a section in the constitution prohibiting the levying of a poll tax. The committee of the whole voted to strike out section 9. On February 10, the convention, by a vote of 54 ayes and 35 noes, concurred with the committee. Subsequently on February 26, while the convention was sitting as a committee of the whole, Mr. Prouty called for a vote on section 9. The question was put without any discussion whatsoever and the committee, by a vote of 74 to 53, accepted the section. Later during the same day the convention concurred by a vote of 81 to 47, and the section became a part of the constitution.

Section 10, prohibiting the suspension of the power of taxation by grant or contract, was accepted with very little discussion.

Section 11, requiring the legislature to provide for the payment of all taxes on real estate in instalments, found a staunch supporter in Mr. Smith of the Fourth Congressional District. The section was attacked by some because of its mandatory form, by others because they thought that this was a legislative question and should be left out of the constitution. The committee of the whole finally agreed upon a compromise. The phrase "shall provide" was stricken out and the words "shall have power to provide" were inserted. The purpose of the section was twofold: first, to make it easier for the taxpayer to pay his taxes, and second, to keep the money in circulation, instead of locking it up in the state and county treasuries.

Section 12, authorizing the assessor to demand a statement from every taxpayer, setting forth the property owned by him, was read and approved without discussion.

Section 13, requiring assessors and tax collectors to be elected by the county, city and county, town or district where the property to be taxed was situated, caused considerable discussion. The section was taken over from the constitution of 1849. There were those in the convention who remembered the legal difficul-

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ties which had been encountered heretofore, because of this provision. It was only a few years since the supreme court had declared unconstitutional the act creating the state board of equalization, because of this provision. Mr. Wyatt pointed out the fact that section 2, as accepted, provided that "property shall be taxed in proportion to its value, to be ascertained as directed by law." This, he argued, was sufficient. Mr. Rolfe maintained that in the absence of any constitutional provision the legislature had full power to designate the mode and manner of assessing property and collecting taxes. By leaving it in the hands of the legislature, the system would have a desirable degree of flexibility and elasticity. The arguments of these two delegates prevailed. The original section and all substitutes were rejected.

Section 14, limiting the state tax rate, exclusive of such as might be necessary to pay the existing state debt, to forty cents on every one hundred dollars worth of taxable property, was likewise rejected. The principal argument in favor of the section was that it was the only means to check state extravagance. The opponents of the measure wisely argued that now, when no one could forecast the results of the new revenue system, was not the proper time to fasten upon the state such a rigid constitutional limitation.

Sections 15 and 16, establishing a state board of equalization, and defining the powers and duties thereof, brought forth a variety of opinions and amendments. It will be remembered that the committee on revenue and taxation recommended that the state board of equalization should be composed of eight members, two from each congressional district. In this way, said Mr. Edgerton, the different interests of a district would be better represented. Thus, in the northern district, those engaged in mining might elect one member, and those interested in agriculture the other. Furthermore, it was thought that a board of but four members would frequently find themselves in a deadlock. The committee of the whole approved this idea of a board composed of eight members, but added a proviso, that whenever the congressional districts should be increased in number the legislature should have the power to reduce the membership. The

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committee also provided that the state controller should be an ex-officio member. When the report of the committee of the whole came before the convention, Mr. White moved to strike out the word "eight" and insert the word "four." He and others could see no reason for bringing eight men to Sacramento to equalize assessments. Four could do the work just as well, and at considerable less expense. His amendment was adopted by a vote of 66 ayes to 32 noes. The state controller remained a member of the board, but the above proviso, empowering the legislature to reduce the membership, was stricken out. The next thing was to determine the power of the state board of equalization. Here the principal issue was, whether it should have the authority to change an assessment on its own motion without giving notice. To insert a provision requiring notice to be given, some held, would result in endless litigation on account of the ambiguous meaning of a proper notice, while to leave out such a provision would virtually empower the board to confiscate a man's property. After a prolonged discussion Mr. Howard, of Los Angeles, offered this proviso and amendment to section fifteen:

> Provided said "state and county boards of equalization" are hereby authorized and empowered, under such rules of notice as the county board may prescribe as to county assessments, and under such rules of notice as the state board may prescribe as to the action of the state board, to increase or lower the entire assessment roll.

This proviso was adopted by the convention.

Section 16 required the assessment of all railroad property by the state board of equalization. The section was roughly handled in the convention. The intention of the committee on revenue and taxation was to apply the "unit rule" to the assessment of railroads. Some members of the convention were unable to understand why a different method of assessment should apply to railroads. Since the creation of the state board of equalization, why not let the local assessors value railroad property, and the state board equalize and correct such valuation. The adherents of this policy were not so very numerous. But there existed another group of delegates who could not comprehend why a local assessor was unable to assess the lands, depots, and local property of a railroad just as well as that of any other cor-

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poration. The contesting parties finally agreed to accept Mr. Ayers' substitute for section 16:

> The franchise, roadway, roadbed, and rolling stock of all railroads in this state, operated in more than one county, shall be assessed by the state board of equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships, and districts, in which such railroads are located, in proportion to the number of miles of railway laid in such counties; and all other property of railroads shall be assessed by the counties in which such property is situated.[34]

In this form the section was referred to the committee on revision and readjustment, which reported it back to the convention in the form in which it was adopted, namely:

> All property, except as hereinafter in this section provided, shall be assessed in the county, cities and counties, town, township or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in the state shall be assessed by the state board of equalization at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships, and districts, in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

Section 17, providing for the taxation of the capital stock of corporations over and above the value of their real and personal property, was rejected; not only because it might involve double taxation, but because the tax had to be paid in the county or city and county, where the principal office of the corporation was located. Nine-tenths of the corporations, it was claimed, had their principal place of business in San Francisco, while their operations extended over the entire state. The country delegates were of the opinion that if this section were allowed to become a part of the constitution, San Francisco would profit at their expense. Rather than benefit San Francisco in this way, they abandoned their policy of "cinching" corporations.

The report of the committee on revenue and taxation made no provision for an income tax. Mr. Dudley of Solano County noticed the omission and waited for an opportunity to offer an

[34] *Debates and Proceedings*, vol. 1, p. 937.

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additional section which read: "Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, and companies, resident or doing business in this state, or any one or more of them, in such case or amounts and in such manner as shall be prescribed by law."[35] He believed that any system of taxation based entirely on property value was wrong and resulted in injustice and that the only way to reach corporations was to tax their gross receipts. Mr. Webster, in supporting the section, said that it was a "tangible step to secure uniformity, equalization and retrenchment." The committee of the whole approved it by a vote of 66 ayes to 39 noes. Later the convention concurred with the committee.

Section 18, reading "The legislature shall pass all laws necessary to carry out the provisions of this article" was adopted as a matter of course.

The constitution, adopted by the convention on March 3rd by a vote of 120 to 15, was ratified by the people on May 7, 1879.

e. Summary

To summarize briefly, the article on revenue and taxation differed from Article XI, Section 13, of the constitution of 1849 in these respects:

1. It contained no expressed provision that taxation should be equal and uniform.
2. It defined the term property so as to include money, credits, stocks, dues, bonds, franchises, and all other matter and things capable of private ownership, real, personal and mixed.
3. It provided for the taxation of mortgages.
4. It required land and improvements to be assessed separately, and also that cultivated and uncultivated lands of the same quality and similarly situated be assessed at the same rate.
5. It authorized the assessor to demand a statement from each taxpayer, showing the property he owned or controlled.
6. It created a state board of equalization and defined its powers and duties.

[35] *Debates and Proceedings*, vol. 2, p. 945.

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7. It empowered the legislature to establish an income tax.
8. It levied a state poll tax.

The new constitution differed furthermore from the old, in so far as taxation was concerned, in that it prohibited the legislature from passing local or special laws,[36] (1) for the assessment or collection of taxes, (2) extending the time for the collection of taxes, (3) refunding money paid into the state treasury, (4) exempting property from taxation; also in that no county, city, town or municipality, or the inhabitants thereof, could be released from its or their proportional shares of taxes levied for state purposes,[37] and in that the legislature was prohibited from imposing a tax on counties, cities, towns or municipalities, or upon the inhabitants or property thereof, for county, city, town or municipal purposes, but was given the power to pass general laws vesting in the corporate authorities thereof the power to assess and collect taxes for local purposes.[38]

[36] *Constitution of California*, 1879, art. 4, sec. 25.
[37] *Ibid.*, art. 11, sec. 10.
[38] *Ibid.*, art. 11, sec. 12.

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CHAPTER V

THE REVENUE LAWS AND RAILROAD TAX LITIGATION, 1880–1895

1. Introduction

The new constitution was ratified by the people of California in May, 1879, by a majority of 10,820 out of 145,088 votes cast at the election. In San Francisco it was rejected by a majority of 1,592 out of 38,034.[1] The campaign preceding the ratification, though non-partisan in nature, was exciting and acrimonious. The opponents of the constitution characterized it as an experimental, socialistic, communistic document. Their point of view is well epitomized by Mr. Shaw in his *Appeal to California* in these words:

> If the constitution is adopted, millions of capital now in active use will forever be lost to the state; hundreds of embryonic enterprises will be abandoned, the state would lose not only the capital invested but the owners of the capital as well. Business would become paralyzed, laborers and mechanics discharged, mortgaged farms and homes lost to their owners, distress and poverty would stalk throughout the land without aid, or even hope of relief.

On the other hand, the advocates of the constitution conscienciously believed it to be a means to secure a more equitable distribution of the burden of taxation, to rid the country of the Chinese, to break the power of the monopolists, to increase wages, and to advance the industrial interests of the state.

The dire predictions of the opponents, and the beneficial results which the defenders claimed would follow the ratification of the constitution, have for the most part remained unfulfilled prophecies. Hubert Howe Bancroft, California's most voluminous historian, says of the constitution in his *History of California* published in 1890:

> So far as its practical workings are concerned, it has achieved nothing which a few amendments would not have done. Those objects which it particularly aimed at it failed to achieve. The effect upon corporations disappointed its authors and supporters. Many of them were

[1] Bancroft, *History of California*, vol. 7, p. 400.

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strong enough still to defy state power and evade state laws in protecting their interests, and this they did without scruple. The relation of capital and labor is even more strained than before the constitution was adopted. Capital soon recovered from a temporary intimidation, and returned to a land where it could earn high interest. Labor, still uneasy, was also still subject to the inexorable laws of supply and demand. Legislators were still to be approached by agents of railroads and other corporations, as might be seen by the reports of investigating committees. Chinese were still employed digging and grading. The state board of railroad commissioners was a useless expense to the commonwealth, being as wax in the hands of the companies it was set to watch. The new constitution was framed to make the rich pay their share of taxation, to control corporations, to correct the revenue system, and to equalize the rights of the people altogether. In each of these designs it failed.[2]

The failure may be attributed, first, to the result of the state election in September, 1879; second, to certain decisions of the supreme court of California; and third, to the absolute impossibility of enforcing certain provisions of the new constitution according to the spirit in which they were conceived. We refer to the taxation of intangible personal property, such as mortgages, credits and money. How the supreme court of California interfered in carrying out the constitutional mandates, will appear as this narrative proceeds. In the gubernatorial and general election of September, 1879, party lines were again in evidence. The Republicans, Workingmen, and Fusionists (the last composed mostly of Republicans and Democrats calling themselves the New Constitution Party), each hoped to win at the polls, and to be the dominant power in enacting the necessary laws and amendments to the codes. From the tri-cornered contest the Republicans emerged as victors. They elected George C. Perkins[3] as governor. In the state Senate, composed of forty members, they had a majority of four, without counting certain Fusionists who formerly were members of the party. The Assembly, as elected, consisted of thirty-four Republicans; twenty-three Democrats and Workingmen, and twenty-one Fusionists.

[2] Bancroft, *History of California*, vol. 7, pp. 403–406. See also Bryce, *The American Commonwealth* (1911 ed.), vol. 2, chap. xc, part v, pp. 437–443.

[3] George C. Perkins, Republican candidate for governor, received 67,619 votes; William F. White, Workingmen's candidate, 44,436; and Hugh J. Glenn, Fusionist candidate, 46,851 votes. *San Francisco Chronicle*, September 15, 1879.

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The Republicans, being able to control the legislature, gave the constitution a strict interpretation and labored diligently to mitigate the supposed evil consequences resulting from its adoption.

2. Changes in the General Property Tax

One of the first subjects receiving the attention of the legislature was the revenue law. The old law was not repealed. Here and there sections of the code were revised and amended so as to make them conform to the new constitution. Whenever necessary, new sections were added. The sections of the revenue laws which underwent the greatest change were those concerned with the base of taxation, the assessment of property, the equalization of the assessment of property, and the collection of taxes, particularly taxes levied on railway property assessed by the state board of equalization. Our discussion in this chapter will not be confined to the changes introduced in 1880, but will include all others prior to 1895.

a. The Base

Section 3607 of the political code, defining the base of taxation, was amended in 1880 so as to read: "All property in this state, not exempt under the laws of the United States, excepting growing crops, property used exclusively for public schools, and such as may belong to the United States, this state, or to any county or municipal corporation within the state, is subject to taxation."[4] On March 7, 1881, a proviso reading "but nothing in this code shall be construed to require or permit double taxation"[5] was added to the section just quoted.[6]

Section 3617 of the political code (the sections mentioned throughout this and the succeeding chapters refer to the political code unless otherwise stated), defining certain terms, such as

[4] *Amendments to Codes*, 1880, p. 5.

[5] *Statutes and Amendments to Codes*, 1881, p. 56.

[6] On November 6, 1894, the people ratified the following amendment to the constitution of the state: "Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grape vines under the age of three years from the time of planting in vineyard form, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevines to taxation."

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"real estate," "improvements," "personal property" and "full cash value," was amended as follows:[7]

First. The term "property" includes moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership.

Second. The term "real estate" includes:

1. The possession of, claim to, ownership of, or right to the possession of land.
2. All mines, minerals, and quarries, in and under the land, all timber belonging to individuals or corporations, growing or being on the lands of the United States, and all rights and privileges appertaining thereto.
3. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, when land is pledged for the payment and discharge thereof, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the land so pledged.
4. Improvements.

Third. The term "improvements" includes:

1. All buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land.
2. All fruit, nut-bearing or ornamental trees and vines, not of natural growth.

Fourth. The term "personal property" includes everything which is the subject of ownership not included within the meaning of the term "real estate."

Fifth. The terms "value" and "full cash value" mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

Sixth. The term "growing crops" includes only those crops which require an annual planting or sowing, or an annual harvesting.

Seventh. The term "credits" means those solvent debts not secured by mortgage or trust deed, owing to the person, firm, corporation or association assessed. The term "debts" means those unsecured liabilities owing by the person, firm, corporation, or association assessed to bona fide residents of this state, or firms, associations or corporations doing business therein.

To this last section there was added by an act of March 7, 1881, the clause:

But credits, claims, debts, and demands due, owing, or accruing for or on account of money deposited with savings and loan corporations shall, for the purpose of taxation, be deemed, and treated as an interest in the property of such corporation, and shall not be assessed to the creditor or owner thereof.[8]

[7] *Amendments to Codes*, 1880, p. 5–6.

[8] *Statutes and Amendments to the Codes*, 1881, p. 57.

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This last mentioned act also omitted entirely the definition growing crops. A definition of the phrase so as to include all "growing crops, cereals, vines, nut-bearing, fruit, and ornamental trees,"[9] was inserted by the amendment of March 16, 1889.

b. Assessment

The most important changes made in the revenue law in 1880 had to do with the assessment of property. Various modifications introduced then are still in force. Section 3629, with the exception of an amendment in 1881, which permitted the president, secretary, cashier, or managing agent of a corporation to omit the capital stock in the statement filed with the assessor, stands today as amended in 1880. The statement just referred to is a statement in writing which the assessor must require each year from every person. It must be given under oath and show all the real and personal property owned by such person, or in his possession or under his control at twelve o'clock noon, on the first Monday in March. It must show all property belonging to, claimed by, or in the possession or under the control or management, of any firm of which such person is a member; or of the corporation of which the person is president, secretary, cashier, or managing agent. The statement must show the county in which the property is situated. It must give an exact description of all lands, in parcels or subdivisions not exceeding six hundred and forty acres. It must include the improvements upon the land. It must include all personal property, such as vessels, steamers and water crafts, taxable state, county, city and county, municipal and public bonds; all taxable bonds of any person, firm or corporation, all deposits of money, gold dust or other valuables, all mortgages, deeds of trust, contracts, and other obligations by which a debt is secured and the property in the county affected thereby and all solvent credits, unsecured by deed of trust, mortgage or other lien on real or personal property, due or owing such person, or any firm of which he is a member, or any corporation of which he is president, secretary, or cashier, or managing agent. From such solvent credits, debts due to bona-fide residents of this state, may be deducted, if not

[9] *Statutes and Amendments to the Codes*, 1889, p. 205.

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secured by mortgage, trust deed, or other lien on real or personal property.[10]

Under the amendments of 1880, the assessor had to value all property, except the franchise, roadway, roadbed, rails and rolling stock of railroads operated in more than one county. Franchises granted by county, city, or city and county authorities had to be assessed in the county, city, or city and county where the principal place of the business of the persons, firms or corporations holding them was located. All other property had to be assessed in the county, city, city and county or district in which it was situated. Land had to be assessed in parcels or subdivisions of not more than six hundred and forty acres. If a land-owner, in filing his statement, failed to describe his lands so that the assessor could assess them as required by law, the latter had to demand an exact description of it. If this was not furnished within ten days after the demand was made, the assessor had to cite the person to appear before the superior court and give his reasons why the land was not subdivided. If the court found the reasons to be unsatisfactory, it could order the county surveyor to establish the necessary boundaries. The costs incurred, after approval by the court, became a lien upon the property and were collected by the tax collector in the same manner, and at the same time, as the taxes levied on the land.

Section 3640 provided for the taxation of the capital stock of corporations, joint-stock companies and associations. To ascertain the value of such stock, the state board of equalization instructed the county assessors to proceed as follows:[11] First, to assess all kinds of property, including the franchise of such corporations, joint-stock companies and associations, except the capital stock. Second, to ascertain the aggregate market value of all capital stock issued. If such value exceeded the assessed value of all property, the excess had to be divided by the number

[10] In 1902 a constitutional amendment, exempting state, county, city and county, municipal and district bonds from taxation, was adopted, but section 3629, to which we have been referring, was not amended so as to conform to the amendment. In 1910 a constitutional amendment exempting mortgages, etc., from taxation was adopted—hence, this item need no longer be included in the statement.

[11] Rule 7 of the rules and regulations of the state board of equalization, 1880.

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of shares issued, and each share assessed to the owner or holder thereof for its proportioned value of such excess. Owners of shares of stock of a corporation whose principal place of business was outside of the state had to be assessed for the value of such shares, without any deduction, though the property might be assessed elsewhere.[12]

The state board of equalization also instructed the assessors to assess to banks all the money, gold dust, and bullion on hand except special deposits, that is, deposits left with the banks merely for safekeeping and which had to be assessed to the owner. Likewise they were to assess to all banks all solvent debts due to them which were secured by mortgage or other lien upon real and personal property. State, county, city and county, and all municipal bonds, warrants and script were to be assessed to the owner or holder as solvent credits. In 1902 these credit instruments were exempted from taxation. Uncultivated lands requiring reclamation before being put under cultivation were to be assessed at their actual cash value. If, however, the land required no reclamation it was to be assessed as other land similarly situated, and at the same value. The board also instructed the assessors to value all franchises separately. Water ditches constructed for mining, manufacturing or irrigation purposes, and wagon or turnpike toll roads and telegraph lines with their franchises and all improvements, were to be assessed as real estate, without separating the value of lands and improvements.

Under an act[13] of March 22, 1880, the assessor of each county had to prepare an assessment book, under the direction of the state board of equalization, showing:

1. The name to whom the property was assessed.
2. The land, by township, range, section or fractional section or by metes and bounds or other description, suf-

[12] *Burke* v. *Badlam*, 57 Cal. 594 (January, 1881). In this case the petitioner asked for a writ of mandate, compelling the assessor of the City and County of San Francisco to assess to the respective corporations all their property, including their franchises, and to the individual stockholders their respective shares of stock held by them. The supreme court refused to grant the writ, on the ground that this, in effect, would be assessing the same property twice for the same tax; and that the constitution did not authorize or require double taxation, but forbade it.

[13] *Amendments to the Codes of California*, 1880, p. 10.

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ficient to identify it. The improvements on any particular piece of land.

3. The city and town lots, designating them by number and block, according to the system of numbering in the city or town, and the improvements thereon.
4. All personal property, showing the number, kind, amount and quality.
5. The cash value of real estate, other than city and town lots.
6. The cash value of improvements upon such real estate.
7. The cash value of city and town lots.
8. The cash value of the improvements on city and town lots.
9. The cash value of improvements on real estate assessed to others than the owners of the real estate.
10. The cash value of all personal property except money.
11. The amount of money.
12. The assessment of the franchise, roadbed, roadway, rails and rolling stock by the state board of equalization as apportioned to his county. The value of improvements on exempted land.
13. The school, road and other revenue districts in which the property is located.
14. The total value of all property.
15. The value of any mortgage, deed of trust, contract or other obligation by which a debt is secured. The value of the capital stock of corporations.

Under the amendment of 1880, the state board of equalization had to assess, on or before the first Monday in May of each year, the franchise, roadbed, roadway, rails and rolling stock of all railroads operated in more than one county in the state. To assist the board in determining the value of such property, the president, secretary, cashier, or managing agent was required to file with the board on or before the first Monday in April a statement showing, among other things, the number of miles of road owned, leased and operated by the corporation making the return, the value per mile, all of the corporation's property located in the state, the number and value of the engines, passenger, mail, express, baggage, freight and other cars, the actual amount of rolling stock used by the corporation in this state, the

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annual gross earnings of the entire system, and the proportionate annual gross earnings in the state.[14] The state board was authorized to make a final arbitrary assessment if any company failed to file the required report.

The railroads objected to the law on the ground that it did not make proper provision to correct their assessment made by the state board. To meet this objection it was amended in 1881. Of this amendment we shall speak later. In 1883, because of the large amount of litigation begun in 1880 and in 1881, discussed elsewhere, the legislature enacted further amendments and added several new sections to the code pertaining to the assessment and taxation of railroads. At this time amendments demanding a more exact statement were enacted. The railroads coming under the jurisdiction of the state board of equalization had to report the entire number of miles of road owned in and without the state, the value of the roadway, roadbed and rails of the entire road and of the part in this state, the width of the right of way, the number and kind of cars owned, the value of the same, the gross earnings of the entire road for the year ending the first Monday in March, the gross earnings of the road in this state, the cost of operating the entire road exclusive of the sinking fund, the expenses of the land department, the money paid to the United States, the net income, the dividends declared, the capital stock authorized, and the amount outstanding, the funded debt, the number of miles of road in each county, and any other facts that might be demanded by the state board of equalization.[15] Of the changes relative to the equalization of railroad assessments and the collection of railway taxes, we shall speak in connection with the equalization of assessments and the collection of taxes.

In 1884, Governor Stoneman, because certain railroad taxes had been compromised and not fully paid, as we shall see later, called an extra session of the legislature to propose certain

[14] Section 3664 of Political Code.

[15] *Statutes and Amendments to the Codes*, 1883, pp. 65–66. Except for a few minor changes, this law is still in force, but will cease to be of signifiance after 1915 on account of recent amendments to the constitution.

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amendments to the constitution, whereby railroad property should be assessed by the state board of equalization in the same manner as the assessors assess other property. The legislature was also to enact certain laws necessary to bring the recalcitrant railroads to terms. It met on March 24, 1884, but failed to enact any law or propose any constitutional amendments affecting the taxation of railroads. In the autumn of 1884 occurred the election of new members to the state legislature. When it met in January, 1885, the subject of railroad taxation was again considered. At this session a series of amendments to the constitution were proposed. Among others was an amendment, known at the time as the "Heath Amendment,"[16] which provided for a tax of 2½ per cent on the gross earnings of railroads. One-third of the money was to be paid into the state treasury for the benefit of the state, and two-thirds for the benefit of the counties through which the railroads passed. The gross earnings were to be declared by the state board of equalization according to their rules and regulations, which rules and regulations might be changed by the legislature. The tax so paid was to be in lieu of all other state and county taxes levied upon the franchises, business, right of way, roadway, roadbed, rails, rolling-stock, fences, stations and other appurtenances; upon ferry-boats when operated as a part of the railroad, upon the shares of the capital stock and upon the mortgages, deeds of trust, contracts or other obligations by which a debt was secured. The amendment became one of the principal issues in the political campaign of 1886. It was indorsed by the Republican party, and opposed by the farmers' convention and the Democratic party. In their platform the Democrats proclaimed that under the proposed amendment, the railroads would become their own assessors and the state and counties would lose annually $478,067.32. They also desired the then existing system to be retained until declared unconstitutional. At the election the people rejected the amendment and the former method of assessing railroads was continued.

[16] *Statutes and Amendments to the Codes*, 1885, p. 28.

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c. *Equalization*

In the preceeding chapter we have stated that the constitution provided for a state board of equalization composed of one member from each congressional district, and the state controller. The duties of this board were defined by an act of April 3, 1880, as follows:[17]

1. To prescribe rules for its own government and for the transaction of its own business.
2. To prescribe rules and regulations, not in conflict with the constitution, nor the laws of the state, to govern assessors when assessing and supervisors when equalizing assessments.
3. To make, prepare, and enforce the use of forms in relation to the assessment of property.
4. To hold regular meetings at the state capitol on the second Monday of each month and such other meetings as the chairman might call.
5. To assess annually the franchise, roadway, roadbed, rails and rolling-stock of all railroads operated in more than one county in the state.
6. To equalize the assessment of each mortgage, deed of trust, contract or other obligation by which a debt was secured and which affected property situated in more than one county and to apportion such assessment to the counties.
7. To apportion to the different counties concerned the assessment of railroads and mortgages.
8. To meet at the state capitol on the third Monday in August and remain in session (Sunday excepted) until the third Monday in September.
9. At such meeting the board was to equalize the assessment of property in the various counties and fix the state rate of taxation.
10. To visit as a board, or as individual members thereof, the several counties of the state, for the purpose of inspecting the property located in the county and of ascertaining its value.

[17] *Amendments to the Codes*, 1880, p. 25.

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11. At such visit, to call before it, or any member thereof, any officers of the county and require them to produce any public records in their custody.
12. To issue subpoenas for the attendance of witnesses or the production of books.
13. To appoint a clerk and prescribe and enforce his duties.
14. To file with the governor, biennially, a statement showing:
    a. The acreage of each county in the state that is assessed;
    b. The amount assessed per acre.
    c. The aggregate value of town and city lots.
    d. The aggregate value of all real estate in the state.
    e. The kinds of personal property and the value of each kind.
    f. The aggregate value of all personal property.
    g. Information relative to the assessment of property and the collection of revenue.
    h. Any further suggestions the board might deem proper.
15. To keep a record of all its proceedings.[18]

Section 3693, which had been repealed by the act of April 1, 1876, was re-enacted by the act of April 3, 1880. It authorized the board, if after a general investigation it found the property of any county to be assessed above or below its full cash value, to add or deduct, without notice, such a per centum from the valuation of:

1. Real estate,
2. The improvements upon such real estate,
3. The personal property except money,

as would be sufficient to raise or reduce the value to the full cash value.

Clothed with power and authority such as this, the members of the state board of equalization proceeded in 1880 to visit the different counties of the state. Before the time to equalize assessments had arrived, they had visited most of the counties, and in many instances found property assessed below its actual cash

[18] On May 20, 1884, the state legislature proposed an amendment to the constitution, prohibiting the state board of equalization from raising a mortgage, deed of trust, contract or other obligation by which a debt is secured, or money or solvent credits above their face value. This amendment was ratified November 4, 1884.

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value. Especially was this true of real estate and sheep. Before taking definite action to raise the valuation of property, it ordered various individuals to appear before it to show cause why their assessment should not be increased. The power of the state board to alter individual assessments was at once called into question. On September 4, 1880, Wells, Fargo and Company and several others firms and corporations, filed in the Supreme Court of the State of California their petition asking for writs of prohibition against the board, to prohibit it from increasing the assessment of the petitioners. Temporary writs were granted and the board commanded to appear in court on the tenth of September and show cause why the injunction should not be made permanent. On September 18 the court issued a writ in the Wells, Fargo and Company case commanding the board to refrain and desist absolutely from any further proceedings in the matter of the assessment of Wells, Fargo and Company. The court was of the opinion that if the proviso of section 9 of article XIII of the constitution, reading: "Such state and county boards of equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe as to the county assessments, and under such rules of notice as the state board may prescribe as to the action of the state board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll," should be interpreted as desired by the state board, and that body allowed to change individual assessments, serious and absurd results would likely follow. If, on the other hand, said the court, the proviso is read distributively—*reddendo singula singulis*—the whole system provided for the equalization of taxes is symmetrical and harmonious, and accords with that manifest intent of local government which permeates almost every part of the constitution.[19] Dissatisfied with the court's decision, the board petitioned for a rehearing but this was denied. Because of this decision the board did not raise any

[19] *Wells, Fargo and Company* v. *State Board of Equalization*, 56 Cal. 194, 198.

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assessments in 1880. In its report of 1880 the board stated that to attain and approach equality and uniformity of assessment it should have the following powers:

First. To increase or lower any assessment on the assessment book.

Second. To increase or lower the entire assessment of any class of property: as of real estate, improvements, or personal property, except money.

Third. To increase or lower the assessment of any species of any class of property as of real estate, city, or town lots; of improvements, improvements on farms, or lots; and of personal property, sheep, horses or hogs.

Fourth. To increase or lower the entire assessment roll of any county.

Fifth. Possibly to add property to the assessment roll where it appears such property has escaped the assessor.[20]

The board furthermore recommended the careful revision of those sections of the political code which were concerned with taxation, and the assessment of real estate but once in every four years. None of the recommendations were, in 1881, approved by the legislature.

From 1881 to 1895, the state board of equalization frequently exercised its authority and increased or decreased the valuation of property as returned to it by the county auditors. In 1881 it increased the valuation of the property of Alameda County nine per cent; of Amador, ten per cent; of Marin, ten per cent; of San Francisco, eight per cent; of San Mateo, twenty per cent; of Solano, five per cent; of Sonoma, seven per cent, and of Santa Barbara, fifteen per cent.

The actual increase for 1881, by the board, amounted to $25,111,382. In 1882 it made no changes in the valuations of property as reported by the county officers. In 1883 the assessments of twenty counties were increased. The rate of increase varied from ten to twenty per cent. The total increase amounted to $71,478,268. In the following year the board reduced the assessment of Contra Costa County twenty per cent and increased that of thirteen other counties, the net increase being $37,777,682. During 1885 nine counties had their assessments increased. That year the total increase was $49,205,185. No changes in the valuations were made in 1886. But in 1887 the assessment of Los

[20] *Report of State Board of Equalization*, 1880, p. 25.

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Angeles County was decreased ten per cent, or $9,154,939, while that of seven other counties was increased. The assessment of Contra Costa County was increased ten per cent; of Humboldt County, fifteen per cent; of Kern, fifteen per cent; of Lake, ten per cent; of Sacramento, ten per cent; of San Mateo, fifteen per cent, and of Yolo, ten per cent. The total increase in the assessment of these counties was not sufficient to offset the decrease of the assessment of Los Angeles County. The former amounted to $8,813,845. During 1888 the board decreased the assessment of Fresno County, ten per cent; of Los Angeles County, ten per cent; and of Santa Clara County, ten per cent. The total decrease was $20,201,032. In 1889 the assessment of Santa Barbara County was increased five per cent, but that of five other counties was decreased, so that there was a total decrease of $27,533,906. In 1890 the assessment of Orange County was reduced ten per cent, or by $816,044. No other changes were made that year. In 1891 the board again pursued the policy of equalizing the assessments by increasing the valuations. The assessments of nine counties were increased. The largest increase was that of the City and County of San Francisco, whose valuation was increased thirty per cent. The total increase for all the counties was $112,418,398. In 1892 the valuation was increased by $76,603,649. That year the assessment of Los Angeles County was increased by twelve and one-half per cent; that of San Bernardino, five per cent; that of the City and County of San Francisco, twenty per cent; and that of Santa Barbara, five per cent. For 1893 the state board made no changes, but in 1894 it increased the assessment of the City and County of San Francisco fifteen per cent and reduced the assessment of Kings County five per cent. The net increase amounted to $46,730,640. The table on the following page shows the counties affected by the action of the state board of equalization and the per cent by which the valuation of property was increased or decreased.

An act of March 14, 1881, provided that if any person, representing a railroad, was dissatisfied with the assessment of property by the state board of equalization, he should file a written petition asking for a correction, within five days after the assessment was made and entered on the records. A hearing had to

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TABLE SHOWING THE PER CENT BY WHICH THE STATE BOARD OF EQUALIZATION INCREASED OR REDUCED THE VALUATION OF PROPERTY (1880–1895)

County	1880[1]	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895
	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%
Alameda	50	9	....	20	10	12½	....	....	....	....	....	....	....	....	....	....
Alpine	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Amador	....	10	....	....	10	....	....	....	....	....	....	....	....	....	....	....
Butte	10	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Calaveras	....	....	....	....	20	....	....	....	....	....	....	....	....	....	....	....
Colusa	10	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Contra Costa	....	....	....	20	*20*	....	....	10	....	....	....	....	....	....	....	....
Del Norte	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
El Dorado	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Fresno	15	....	....	....	....	....	....	....	*10*	*10*	....	....	....	....	....	....
Humboldt	....	....	....	....	10	....	....	15	....	....	....	....	....	....	....	....
Inyo	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Kern	10	....	....	10	15	15	....	15	....	....	....	5	....	....	....	....
Kings	....	....	....	....	....	....	....	....	....	....	....	....	....	....	*5*	....
Lake	....	....	....	....	10	10	....	10	....	....	....	....	....	....	....	....
Lassen	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Los Angeles	10	....	....	15	20	20	....	*10*	*10*	*10*	....	15	12½	....	....	....
Marin	....	10	....	20	....	....	....	....	....	....	....	....	....	....	....	....
Mariposa	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Mendocino	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Merced	15	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Modoc	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Mono	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Monterey	10	....	....	15	....	....	....	....	....	....	....	....	....	....	....	....
Napa	15	....	....	10	....	10	....	....	....	....	....	....	....	....	....	....
Nevada	....	....	....	....	....	....	....	....	....	....	*10*	....	....	....	....	....
Orange	....	....	....	....	....	....	....	....	....	....	....	10	....	....	....	....
Placer	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Plumas	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Sacramento	....	....	....	15	....	....	....	10	....	....	....	....	....	....	....	....
San Benito	10	....	....	10	20	....	....	....	....	....	....	....	....	....	....	....
San Bernardino	10	....	....	....	12½	....	....	....	....	*5*	....	15	5	....	....	....
San Diego	....	....	....	....	....	....	....	....	....	*10*	....	....	....	....	....	....
San Francisco	....	8	....	15	10	12½	....	....	....	*5*	....	30	20	....	15	....
San Joaquin	....	....	....	15	....	....	....	....	....	....	....	5	....	....	....	....
San Luis Obispo	10	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
San Mateo	10	20	....	15	20	....	....	15	....	....	....	10	....	....	....	....
Santa Barbara	....	15	....	20	25	15	....	....	*10*	5	....	10	5	....	....	....
Santa Clara	10	....	....	10	....	10	....	....	....	....	....	10	....	....	....	....
Santa Cruz	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Shasta	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Sierra	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Siskiyou	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Solano	15	5	....	15	....	....	....	....	....	....	....	....	....	....	....	....
Sonoma	....	7	....	....	....	10	....	....	....	....	....	....	....	....	....	....
Stanislaus	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Sutter	15	....	....	20	....	....	....	....	....	....	....	....	....	....	....	....
Tehama	....	....	....	10	....	....	....	....	....	....	....	....	....	....	....	....
Trinity	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Tulare	25	....	....	10	....	....	....	....	....	....	....	....	....	....	....	....
Tuolumne	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Ventura	....	....	....	....	15	....	....	....	....	....	....	....	....	....	....	....
Yolo	10	....	....	20	....	....	....	10	....	....	....	....	....	....	....	....
Yuba	10	....	....	10	....	....	....	....	....	....	....	....	....	....	....	....

[1] Figures for 1880 represent proposed increases.
Figures in italics represent reductions.

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be given in not less than five, nor more than ten days, after the filing of the complaint. Should a person not receive satisfaction from the board, he had to pay the tax and bring an action within ten days thereafter, in the superior court of the county where the taxes were paid. At the time the board answered the complaint or demurred, it might demand that the suit be removed to the superior court of Sacramento County. The action of the board had to be defended by the district attorney of the county where the action was brought, or by the attorney-general of the state of California. On March 9, 1883, the law was further amended, and the owner of railway property dissatisfied with the assessment of the state board was permitted to appear before the board in accordance with section 3692, between the first Monday in August and the first Monday in September, and apply for relief. The board might at this time increase or reduce the assessment so as to make it accord with the assessment of other property in the state.

d. State Rate of Taxation

At each biennial session, the legislature has amended section 3713 of the Political Code, which directs the state board of equalization to fix such an *ad valorem* rate of taxation on each $100 worth of taxable property as, after allowing the per cent for delinquencies in and costs of collection as specified in section 3696, would raise the amount of revenue directed to be raised by the legislature for state purposes. The only way in which the state board can alter the state rate of taxation is by increasing or decreasing the valuation of property as returned by the auditors. This it has frequently done, but not with a view of raising or lowering the tax rate, but of equalizing the assessment among the different counties. So far as the duty of the board in determining the tax rate is concerned, it merely has to divide the total amount directed to be raised in the tax-levy bill by the total valuation of property, less the allowance for the cost of collection and for delinquencies.

During the fifteen years here under consideration, the state tax rate, as the following table shows, the figures of which are taken from the report of the state board of equalization, varied

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from .434 cents on every one hundred dollars of taxable property in 1892 to .722 cents in 1889. The cause of the high tax rate in 1889 was the liberality of the legislature towards all departments of government. The appropriations for the interest and sinking fund shows a gradual decline, the tax rate for this purpose decreasing from $.06 in 1880 to .013 in 1894. The appropriations for the common-school fund, on the other hand, shows a steady increase, from $1,400,000 in 1880 to $2,057,279 in 1894. The increase in the valuation of property during this period was, however, large enough to prevent an increase in the tax rate for this purpose, the rate decreasing from 23 cents to 18 cents. The appropriations for the general fund fluctuated from year to year. In 1880 they amounted to $1,750,000; in 1894 to $3,312,920; in 1888 to $2,814,000; in 1889 to $4,822,970; in 1892, to $2,756,964; in 1893 to $4,262,225.10. With the variation in the appropriations for the general fund, went a corresponding variation in the rates.

In 1887 the legislature levied a tax of one cent on the hundred dollars for the benefit of the state university fund. In 1890, $175,000 was appropriated for the construction of the Mendocino insane asylum, and in 1891 a like sum.

e. Collection of Taxes

From 1880 to 1883, all taxes, state and county, no matter whether the property was assessed by the state board of equalization or the county assessor, were collected by the county tax collector. This method of collecting taxes on railroad property assessed by the state board proved unsatisfactory. As we shall see later, the railroads were resisting the payment of their taxes. Many of the counties were in need of funds and ready to compromise with the railroads. In a few of them the county board of supervisors[21] attempted to reduce the valuation of property as apportioned to the counties by the state board of equalization. In this endeavor they were defeated by the decision of the supreme court in the case of *The People* v. *The Supervisors of Sacramento County,* 59 Cal. 321. Failing to reduce the valuation, they authorized the collectors to accept sixty per cent of the amount

[21] Alameda, San Mateo, Yolo, and Sacramento.

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STATEMENT SHOWING THE TOTAL VALUATION OF PROPERTY, THE AMOUNT OF MONEY TO BE RAISED FOR STATE PURPOSES, THE STATE TAX RATE, THE AMOUNTS LEVIED FOR THE DIFFERENT FUNDS AND THE TAX RATE FOR EACH

				Appropriations for the Various Funds										
		Total Amount	Total State	General		School		Interest and Sinking		Grammar School		Mendocino Asylum		University
Year	Valuation of Property	to be Raised	Tax Rate	Amount	Rate	Amount	Rate	Amount	Rate	Amount	Rate	Amount	Rate	tax
1880	$666,183,320	$3,465,000	$.64	$1,750,000	$.30	$1,400,000	$.23	$315,000	$.06	.....	.....	.....	.....	....
1881	659,522,323	3,805,084	.655	2,190,084	.377	1,300,000	.224	315,000	.054	.....	.....	.....	.....	....
1882	607,461,981	3,186,735	.596	1,488,735	.276	1,300,000	.243	398,000	.075	.....	.....	.....	.....	....
1883	764,763,559	3,302,200	.497	1,700,300	.256	1,300,000	.196	301,900	.045	.....	.....	.....	.....	....
1884	821,078,767	3,269,100	.452	1,667,200	.230	1,300,000	.180	301,900	.042	.....	.....	.....	.....	....
1885	859,512,384	4,119,070	.544	2,550,000	.338	1,300,000	.171	269,070	.035	.....	.....	.....	.....	....
1886	816,446,700	4,033,442	.560	2,312,812	.312	1,300,000	.180	420,630	.059	.....	.....	.....	.....	....
1887	955,455,839	5,025,000	.608	3,225,000	.385	1,600,000	.190	200,000	.023	.....	.....	.....	.....	.01
1888	1,107,106,327	4,814,000	.504	2,814,000	.290	1,800,000	.184	200,000	.020	.....	.....	.....	.....	.01
1889	1,115,014,022	6,991,470	.722	4,822,970	.492	1,893,500	.193	200,000	.020	75,000	.007	.....	.....	.01
1890	1,099,772,904	5,542,540	.580	3,199,040	.330	1,893,500	.195	200,000	.020	75,000	.007	175,000	.018	.01
1891	1,241,231,105	4,878,848	.446	2,622,674	.234	1,966,174	.176	110,000	.010	.....	.....	175,000	.016	.01
1892	1,275,832,510	4,874,848	.434	2,756,964	.239	1,966,174	.171	151,710	.014	.....	.....	.....	.....	.01
1893	1,211,572,074	6,460,939	.576	4,262,225.	.374	2,057,279	.179	141,435	.013	.....	.....	.....	.....	.01
1894	1,204,976,952	5,511,634	.493	3,312,920	.290	2,057,279	.180	141,435	.013	.....	.....	.....	.....	.01

NOTE.—From 1878 to 1890, inclusive, the state board of equalization had to allow 12 per cent for the cost of collection and delinquencies.
From 1891 to 1892, inclusive, the state board of equalization had to allow 9½ per cent for the cost of collection and delinquencies.
From 1893 to 1910, inclusive, the state board of equalization had to allow 5 per cent for the cost of collection and delinquencies.
From 1893 to 1910, inclusive, the state board of equalization had to allow 5 per cent for the cost of collection and delinquencies.

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due the state and county, in full payment. This scheme was defeated by the state controller, who insisted that the counties had no authority to compromise the taxes due the state.

In his report of November 1, 1882, Controller of State Kenfield reviewed the entire situation and made the following recommendations:

First. The state board of equalization shall assess the franchise, roadway, roadbed, rails and rolling-stock of railroads operated in more than one county.

Second. The board shall apportion such assessment among the several counties entitled thereto in the ratio as is at present prescribed.

Third. The board shall make an entry of such assessment, describing the road sufficiently well to identify it, and the apportionment of the same, in a book to be called the Assessment Book of the State Board of Equalization.

Fourth. Such book shall then be transmitted to the controller, who, at the proper time (or such duty may devolve upon the board, as at present) shall notify the board of supervisors of the amount of assessment apportioned to the county, as a basis for county taxation.

Fifth. The controller shall calculate, and carry into a column in the book, the amount of taxes due the state.

Sixth. As soon as the rate of county tax is fixed by the board of supervisors, the auditor of the county shall notify the controller of such rate.

Seventh. The controller shall then calculate the amount due the county, and carry the amount into a column prepared for that purpose.

Eighth. Each railroad company must settle with the controller for its taxes, and pay the amount into the state treasury.

Ninth. The state controller and treasurer shall credit each county with the amount due the county on account of taxes paid by the railroad companies, and notify the county treasurer thereof.

Tenth. In the event of any railroad company failing to pay its taxes, the controller to have authority to prosecute an action for the state tax and the county taxes due, in one suit, prescribing the form of complaint, so that there shall be no failure for want of form.[22]

In 1883 the law was amended in accordance with the recommendation of the controller. Under the amendment, the controller had to collect the tax on railroad property assessed by the state board of equalization. To recover delinquent railroad taxes, the controller and not the county tax collector had to bring an action against the company.

The constitution of 1879 contained a clause empowering the legislature to enact a law allowing the payment of taxes by in-

[22] *Report of Controller of State*, dated Nov. 1, 1882, p. 26.

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stallment. Not until March 31, 1891, did the legislature pass an act carrying out this constitutional provision. Under this act, the taxes on personal property secured by real estate and one-half of the taxes on real estate became due on the first Monday in October and delinquent on the last Monday in November. The second installment became due the first Monday in January and delinquent the last Monday in April.

Another important law, enacted during this period (1880–1895) was an act of February 23, 1893. Reference has already been made to the efforts of the state controller to secure the enactment of a law which would abolish the fees paid to the county assessors, treasurers, auditors and tax collectors for their services in assessing and collecting the state taxes. After the adoption of the constitution, the agitation was continued. In his report of November 1, 1882, Controller of State Kenfield said: "The original laws providing for the payment of commissions by the state have, in the interests of counties and officials, been amended so often and in so many different ways, that the system which now prevails is one of confusing complications, unequal as between counties, and unjust as to the interest of the state." Again in 1892, Controller E. P. Colgan referred to this subject. He called the attention of the legislature to the fact that all county assessors, auditors, treasurers, and tax collectors were on a salary basis. The fees collected from the state were not being paid to these officers, but were paid into the county fund—a simple case, as he said, of taking money out of one pocket and putting it in another, and losing some by the transaction. At last the legislature was persuaded to act. A bill approved February 23, 1893, abolished all commissions and fees paid by the state to the county or city and county officers for their services in assessing property, auditing the assessments, and collecting and paying over the *ad valorem* property tax. The act did not apply to fees allowed the assessor for collecting the tax on personal property unsecured by real estate, nor to the three-cent mileage allowed the county treasurer when going to the state capitol to settle with the controller of state as required by law. The table on the following page shows the amount paid by the state to county assessors, auditors, tax collectors, and treasurers, and the marked effect of the law of February 23, 1893.

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COMMISSION AND MILEAGE ALLOWED FOR ASSESSING, AUDITING, COLLECTING, AND PAYING IN, STATE TAXES

Fiscal year closing June 30	Assessor's commission	Auditor's commission	Treasurer's commission and mileage	Tax collector's commission	Assessor's commission for collecting tax on personal property	Total
1880	$70,356.19	$29,679.21	$49,243.12	$34,506.07	$1,682.34	$185,466.93
1881	88,810.89	34,307.37	64,094.53	44,836.98	2,529.44	234,579.21
1882	115,482.20	37,491.69	66,202.45	42,749.56	3,179.94	265,105.84
1883	81,733.58	33,914.16	55,978.53	35,689.89	4,157.00	211,473.16
1884	65,826.69	35,296.72	57,211.40	36,734.80	2,911.60	197,981.21
1885	61,906.67	33,356.23	53,825.00	35,065.75	1,989.80	186,143.45
1886	82,046.41	41,349.39	81,474.50	51,598.92	3,093.60	259,562.82
1887	77,199.39	41,728.37	76,880.23	52,239.49	3,533.02	251,580.50
1888	77,552.50	47,647.50	97,180.24	65,999.82	6,220.47	294,600.53
1889	78,167.03	47,322.25	90,249.17	60,311.15	6,227.32	282,276.92
1890	104,224.28	66,826.82	133,864.69	92,289.07	6,158.36	403,363.22
1891	89,696.39	55,272.45	104,348.67	67,580.92	7,405.09	324,303.52
1892	76,703.96	52,408.25	82,243.89	53,925.00	6,619.63	271,900.73
1893	81,153.65	54,285.85	84,864.11	56,724.06	5,739.99	282,767.66
1894	.....	.....	6,820.04	.....	6,834.98	13,655.02
1895	.....	.....	.....	.....	.....	.....

The table on page 296, compiled from the reports of the state controller, shows the total amount of taxes for state and county purposes charged up by the controller and by the county auditors against the county tax collectors.

f. Enforcement

In 1883, several new sections which established a different method of procedure to enforce the collection of taxes on property assessed by the state board of equalization, were added to the political code. Under the new law, within ten days after the fourth Monday in October, the state controller had to publish for two weeks in one daily newspaper published in San Francisco and one at the state capital, a notice stating that he had received the "Duplicate Record of Apportionment of Railway Assessments" and the "Duplicate Record of Assessments of Railways" and that the taxes were due and payable, and became delinquent on the first Monday in December next, at six P.M. If they were not paid before that time, the treasurer of the state had to collect five per cent additional, which was to be paid into the railway-tax contingent fund, to defray the expenses of railway-tax litigation. Dissatisfied owners, upon the payment of

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TABLE SHOWING TOTAL AMOUNT OF STATE AND COUNTY TAXES CHARGED AGAINST TAX COLLECTORS (1880–1894)

	Taxes due to property assessed by county assessors			Taxes due from railroads, on property assessed by the state board of equalization			
Year	Amount for state purposes	Amount for county purposes	Total	For state purposes	For county purposes	Total	Grand total, state & county
1880	$4,264,940.94	$8,150,766.48	$12,415,707.42*	.....	.....	.....	.....
1881	4,321,844.53	6,804,454.34	11,126,298.87*	.....	.....	.....	.....
1882	3,628,882.00	6,525,324.93	10,154,206.93*	.....	.....	.....	.....
1883	3,606,807.15	7,217,301.89	10,824,109.04	$198,884.49	$421,991.67	$620,876.16	$11,444,985.20
1884	3,484,292.62	6,939,898.85	10,424,191.47	229,374.18	486,749.48	716,123.66	11,140,315.13
1885	4,410,428.67	7,537,951.58	11,948,380.25	266,754.48	524,428.37	791,182.85	12,739,563.10
1886	4,308,524.77	6,847,892.78	11,156,417.55	269,086.16	461,848.02	730,934.18	11,887,351.73
1887	5,527,091.80	8,163,604.77	13,690,696.57	289,878.91	448,994.99	738,873.90	14,429,570.47
1888	5,366,137.23	8,577,734.78	13,943,872.01	217,942.96	370,681.89	588,624.85	14,532,496.86
1889	7,733,358.56	9,322,470.57	17,055,829.13	292,328.06	375,699.09	668,027.15	17,723,856.28
1890	6,150,990.64	9,040,317.39	15,191,308.03	233,152.18	376,753.61	609,905.79	15,801,213.82
1891	5,355,700.29	9,958,698.08	15,314,398.37	184,706.45	418,601.57	603,308.02	15,917,706.39
1892	5,354,338.86	10,176,283.20	15,530.622.06	182,089.04	399,215.30	581,304.34	16,111,926.40
1893	6,758,020.70	10,710,141.23	17,468.161.93	244,676.96	425,579.80	670,256.76	18,138,418.69
1894	5,722,906.25	10,201,643.44	15,924,549.69	210,662.06	425,154.66	635,816.72	16,560,366.41

* Includes taxes on railroad property assessed by the state board of equalization.

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the tax, could bring an action against the treasurer to recover the taxes paid under protest. After the first Monday in February of each year, the controller had to bring an action, in the name of the state of California, to collect the delinquent taxes on property assessed by the state board of equalization. The suit brought by him had to cover all taxes due the state, counties, or cities and counties, and had to be prosecuted by the attorney-general.

In 1891 section 3668 was amended because of the law allowing taxes to be paid by installments. According to this amendment, all taxes on personal property, and one-half of the taxes on real estate became due on the second Monday in October, and delinquent at six P.M. on the last Monday in November. If not paid then, five per cent was added. The other half of the taxes on real property were due and payable at any time between the first Monday in January and six P.M. of the last Monday in April. After the last Monday in April the treasurer of the state had to collect ten per cent additional on the November payment and five per cent on the April payment which were delinquent. If the taxes were not paid before the first Monday in June, the controller had to bring action in the proper court in the name of the people of California, to collect the delinquent taxes upon the property assessed by the state board of equalization.

Section 3746 fixes the delinquent penalties on property not assessed by the state board. As this section was amended in 1891, the first installment of taxes, including all taxes on personal property secured by real estate and one-half the taxes on real estate, became due and payable on the first Monday in October and became delinquent at six P.M. on the last Monday in November. The second installment, that is, the remaining one-half of the taxes on real estate, was due and payable on the first Monday in January and delinquent at six P.M. on the last Monday in April. However, in counties and city and county, having a population of more than 250,000 the second installment became delinquent on the last Monday in February. If the first installment was not paid on or before the last Monday in November, fifteen per cent was added, while five per cent

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more was added if it was not paid on or before the last Monday in April. The delinquent penalty on the last installment was also five per cent.

We have now traced the development of the general property tax from 1880 to 1895. We have seen how the supreme court, by constitutional interpretation, prevented the assessment of the capital stock of corporations, and how it limited the powers of the state board of equalization and prohibited the state board from altering individual assessments. We have spoken of the modification of the revenue law in 1883, whereby the controller had to collect all the taxes due from railroad companies, on property assessed by the state board of equalization; of the state rate of taxation; of the law abolishing the fees allowed county officers for their services in assessing and collecting state taxes; of the law permitting the payment of taxes by installments. To conclude this part of the discussion we have prepared a table, showing the total state receipts from the general property tax, the amount received from property assessed by the county assessors, and the amount from the railroad property assessed by the state board of equalization. The figures, as given

Year	Receipts from taxes on property assessed by the county assessors	Receipts from taxes on railroad property assessed by the state board of equalization	Total
1880	$3,131,734.83†	.....	$3,131,734.83
1881	3,636,008.23†	.....	3,636,008.23
1882	3,685,367.60†	.....	3,685,367.60
1883	3,305,507.99†	.....	3,305,507.99
1884	3,527,349.64	20,206.34	3,547,555.98
1885	3,271,719.24	16,546.08	3,288,265.32
1886	4,222,198.33	439,165.49*	4,661,363.82
1887	4,064,938.37	63,421.88‡	4,001,516.79
1888	5,134,103.75	33,990.04	5,168,093.79
1889	5,038,424.95	218,028.88	5,256,453.83
1890	7,211,414.95	292,606.00	7,504,020.95
1891	5,793,886.76	232,934.89	6,026,821.65
1892	4,950,096.76	183,814.40	5,133,911.16
1893	4,965,259.84	187,295.82	5,152,555.66
1894	6,568,701.55	482,550.79*	*7,051,252.34

† Includes receipts from taxes on railroad property assessed by the state board of equalization.

* Includes back railroad taxes.

‡ Deficit on account of refunds to counties.

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in the table, reveal on the whole a gradual increase in the state receipts from the general property tax. The receipts for 1890 and 1894 are, however, exceptions to this statement. The large receipts during these years were not caused by an increase in the valution of taxable property but by an increase in the state rate of taxation. For the fiscal year 1889–90, when the total amount collected was $7,504,020.95, the state rate of taxation was 72.2 cents per $100 assessed valuation as compared with 50.4 cents for the previous year. For the fiscal year 1893–4, the state rate of taxation was 57.6 cents as compared with 43.4 cents for the preceding year. A part of the increase for 1893–4 was caused by the payment of back taxes by certain railroad companies.

3. The Poll Tax

Under the authority and in accordance with section 12 of article XIII of the constitution, the legislature by an act of March 22, 1880, levied a two-dollar poll tax. The tax was to be collected by the assessor between the first Monday in March and the first Monday in July inclusive, if not paid when due it became three dollars and had to be collected on or before the last Monday in December. Of the former the assessor received fifteen per cent of the latter, twenty-five per cent. If any person refused to pay the tax the assessor had to seize and sell enough of the person's personal property to satisfy the demands of the state.

The amount of poll tax collected is shown by the following table:

1880	$12,415.70	1887	$305,643.23
1881	316,869.48	1888	316,744.02
1882	248,816.30	1889	340,572.84
1883	245,493.35	1890	352,927.70
1884	271,340.71	1891	362,124.59
1885	300,733.81	1892	405,254.08
1886	296,919.29	1893	349,246.45
1894	$349,927.18		

4. Railroad Tax Litigation

The assessment and taxation of railroads had not proved satisfactory under the old constitution. The Central Pacific Railroad Company claimed exemption from state taxation

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because it held a federal franchise. Unable to maintain this contention,[23] the company argued that the law under which its property was assessed was null and void because it lacked uniformity. In Placer county the assessment was made by district assessors, elsewhere by county assessors. Remembering the difficulties encountered by the county assessors when assessing railroad property, and the absolute impossibility of securing a uniform valuation of this kind of property under the method prescribed by the constitution of 1849, the committee on revenue and taxation of the constitutional convention of 1879 recommended the so-called "unit rule" for assessing railroad property. According to their recommendation, all such property should be assessed by the state board of equalization. This suggestion of the committee was modified by the convention, as we have seen in the preceding chapter, so that the state board could assess only the franchise, roadbed, roadway, rails and rolling-stock of railroads operating in more than one county. The constitution of 1879 also prohibited the deduction of mortgages from railroad assessment. As mentioned before, the legislature in 1880 enacted the necessary laws to carry out the provisions of the constitution. In 1880 the state board of equalization assessed this class of property as follows:

Roadway, roadbed and rails	$21,262,662.50
Rolling stock	6,506,256.00
Franchises	3,405,222.71
	$31,174,141.21 [24]

For the following year the valuation was fixed at $34,829,668. In 1880 the taxes due the state on property assessed by the state board of equalization were $199,514.50; in 1881, $228,134.31. For the former year, the delinquent railroad taxes amounted to $196,805.81; for the latter, to $220,317.61. If to these figures we add the delinquent county taxes, $351,894.68 in 1880 and

[23] In the case of *The People* v. *The Central Pacific Railroad Company*, 43 Cal. 398 (1872), the court held that the holding of a federal franchise did not prevent the state from taxing the property of the railroad company.

[24] These are the figures of the state board of equalization; the controller of state reports the total valuation at $31,174,120.

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$349,039.50 in 1881, we obtain a total of $1,118,057.60 as the amount which railroads owed the state and counties in 1882.

The large amount of delinquent taxes affected seriously the finances of the state and counties. In reference to the county finances the state controller, in his report, said, "It is not surprising that the failure of the railroads to pay their taxes should have caused widespread consternation. The whole revenue system of the several counties was disarranged thereby; the ordinary obligations of the counties could not be fully met, and in many of the counties the public schools were closed for want of funds."[25] In this statement we have one reason at least why the county boards of equalization were willing to reduce the valuation of the property as fixed by the state board of equalization and why tax collectors were ready to receive from the railroads less than the face value of the taxes due.

In 1880, when the tax collectors took steps to sell the railroad property for delinquent taxes, C. P. Huntington, a stockholder of the Central Pacific Railroad Company, secured an injunction, enjoining the county officers from selling the property. After the time for making the sale had passed, the injunction was dismissed. In the following year similar tactics were pursued. First the railroad companies which refused to pay their taxes sued out writs of injunction in the superior court of the City and County of San Francisco. After having heard the case of the petitioners, Judge Waymire dismissed the writ against the tax collector of Sacramento County. At once the railroads appealed to Judge Green, of the superior court of Alameda County. He granted the desired writ of injunction, and after the time for selling the property had elapsed, dismissed the case.

While the sale of railroad property was prevented by these injunction proceedings, several cases in which the assessment by, and the power of the state board of equalization, were attacked, came before the supreme court of California and the circuit court of the United States for adjudication. In the case of *The San Francisco and Northern Pacific Railroad Company* v. *the State Board of Equalization,* 60 Cal. 12 (Jan. 1882), the railroad contended that the board had no authority to make the

[25] *Report of Controller of State,* 1880–81, p. 24.

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assessment without first determining the value of the property according to some law and order; that the constitution gave the board no authority to make the assessment or to levy taxes, this power being conferred upon it by the code; that the apportionment was void, because it blended all items of property into one; that the law made no provisions to enter a complaint; that the board erred in assessing the roadway, roadbed and rails separately, for all these are one; that the assessment violated the constitutional provision requiring property to be assessed in the county where it is situated, and that the company was being deprived of its property without due process of law. In addition to these complaints, the company also alleged that it was discriminated against, in that it was denied an appeal to the county board of equalization, that its property was assessed in a different manner than other property, and that it did not have the benefits and safeguards thrown about its property as did natural and artificial persons other than railroad corporations. The supreme court of California decided against the company in all of its contentions.

A little later the court handed down its decision in the case of *The Central Pacific Railroad Company* v. *The State Board of Equalization,* 60 Cal. 35 (Jan. 1882), in which the court held that the railroad derived its franchise solely from the state of California and was therefore subject to taxation. The company, said the court, is not exempt from taxation because it is a means, or an instrument employed by Congress to carry out the powers of the federal government.

These decisions might have been final had it not been for the opinion of Justice Field in the case of *San Mateo County* v. *The Southern Pacific Railroad Company,* 13 Fed. 722. This case was removed from the county court to the circuit court of the United States. It involved the assessments for 1880 and 1881. The principal points at issue were, first, was the method prescribed for the assessment of certain railroad property legal; second, was the railroad discriminated against because it was not allowed to deduct mortgages; third, had a state power to tax a corporation created by the federal government; and fourth, was the railroad being deprived of its property without due

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process of law. Justice Field, in speaking for the court, held that the constitution of California was void in so far as it provided a different method of assessing certain railroad property as compared with the assessment of other property. "Uniformity in taxation," he said, "required uniformity in assessment as well as in the rate charged." He also held that the provision of the constitution which did not allow railroads to deduct mortgages, was void. The State of California appealed the case to the Supreme Court of the United States. Here it was argued; but before a decision was rendered the attorney-general of California was asked to submit six more cases, so that all the questions involved might be fully before the court. These cases had first to be tried in the circuit court of the United States, where they were decided virtually in the same manner as the San Mateo case. They were then appealed to the Supreme Court of the United States as requested, but before it handed down its decision the following affidavit was sent to the clerk of the Supreme Court of the United States:

State of California }
County of San Mateo } ss.

P. P. Chamberlain, being duly sworn, deposes and says that he is forty-five years of age, is now, and has been since January, 1883, Treasurer of the County of San Mateo; that on December sixteenth instant, George Barker, County Auditor of San Mateo County, handed said Chamberlain a certificate of settlement, dated December eleventh instant, in the following words and figures:

Auditor's Office }
County of San Mateo } ss.

I, George Barker, County Auditor of said County, do hereby certify that (the) Southern Pacific Railroad, for taxes, has this day made a settlement with me, and that he has the following sums of money due and payable into the County Treasurer, to wit:

State and County taxes for the year 1881–2	$7,247.62
Five per cent delinquency	362.68
Costs	3.00
	$7,613.30

Dated this eleventh day of November, 1885.

(Signed) George Barker,
County Auditor.

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Certificate of Settlement

That thereupon said Chamberlain filed said certificate of settlement, and made entry of said sum of $7,613.30 under date of December eleventh inst., to conform to date of said certificate of settlement, in the following form:

1885, December 11—by Southern Pacific Railroad
taxes, 1881–2, unapportioned $7,613.30

Affiant further states, that on December thirteenth inst., at the telegraphic request of Creed Haymond, counsel for said Southern Pacific Railroad Company, said Chamberlain united in a telegram with said Auditor Barker, addressed to the clerk of the United States Supreme Court, Washington, D.C., to the effect that the taxes, penalties, costs, interests, and counsel fees due to said county from the said Southern Pacific Railroad Company, for the fiscal year 1881–2, had been fully discharged and settled; that said allegations of said Chamberlain, in said telegram, were based upon the representations made by said County Auditor Barker that said Barker supposed it was all right; that from said representations made by said Barker said Chamberlain believed that said payment of said $7,613.30 did make a full settlement of said taxes, penalties, costs, interest, and counsel fees due said county from said Southern Pacific Railroad Company for said fiscal year; that said Chamberlain had no knowledge, on said December thirteenth inst., nor has he at this time, of the actual amount due said county from the said Southern Pacific Railroad Company, for said fiscal year, and that the language of said telegram sent to said clerk on said December thirteenth inst., was a copy of (the) telegram, dictated by said Creed Haymond, in said telegraphic request.

(Signed) P. P. Chamberlain,
County Treasurer.

Subscribed and sworn to before me, this eighteenth day of December, A.D. 1885.

(Signed) Edward Fitzpatrick,
(Seal) Notary Public.[26]

When the Supreme Court of the United States received this affidavit it at once dismissed all the cases and notified the state controller to that effect. State Controller John P. Dunn, the day after receiving word that the cases had been dismissed, went to Redwood City, San Mateo County, examined the official records of both the auditor and the treasurer of said county and failed to find any record or evidence that the taxes had been paid.

In following this case to its close we have proceeded ahead of our story. We shall now have to go back a year or two, to

[26] *Report of the Controller of State* for 1884–86, p. 28.

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take up another controversy that grew out of railroad taxation. The taxes of 1882 were allowed to become delinquent as those of 1880 and 1881. After the six cases to which we have referred above had been decided against the state by the circuit court, the San Francisco *Chronicle* suggested that the state settle with the railroads for the face value of the taxes due and remit the penalties, interest and attorney fees. This idea met the approval of Attorney-General E. C. Marshall, but was repudiated by popular opinion and hence abandoned. By this time public opinion had turned so strongly against the delinquent railroad companies, that they thought it best to effect a settlement. They placed their proposition before the attorney-general. He called up the cases decided against the state by the circuit court of the United States; after the court, as a mere matter of formality, rendered a second time its decision against the state, the attorney for the railroad moved to set aside the judgment and have judgment entered for the plaintiff for the face value of the taxes due. Nothing, according to an unwritten agreement between the attorney-general and the attorney for the railroad, was to prevent the state from bringing action in the supreme court of the United States, to recover costs, penalties and attorney fees.

Under this settlement $470,475.08 was paid to the attorney-general. When he offered the money to the state controller, the latter refused to accept it, on the theory that he had no legal authority to accept a partial payment of taxes due the state. Not only did the controller refuse to accept the state's portion of the money paid to the attorney-general, but he instructed the county officers not to receive their share. These instructions were ignored by all the county treasurers except those of Placer, San Joaquin, and Contra Costa counties. After a long drawn-out controversy between the controller and the attorney-general, the supreme court, in the case of *San Mateo County* v. *D. J. Oullahan, State Treasurer,* 69 Cal. 647 (May, 1886), decided that, since the money paid by the railroads was public revenue, the state officers had to receive it.

In 1883 the Central and Southern Pacific railroad companies again refused to pay their taxes on property assessed by the state board of equalization. At this time suit was brought

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against them by the state controller under the law as amended in 1883. The actions were removed to the circuit court of the United States. The companies agreed to pay sixty per cent of the amount the state claimed for taxes. Once more the attorney-general accepted the proposition of the railroads, which paid him $333,377.10.

According to the report of controller of state for the thirty-fourth and thirty-fifth fiscal years, 1882-1884, the amount of railroad taxes for state purposes delinquent were as follows: 1880, $157,016.37; 1881, $177,189.93; 1882, $117,065.51; 1883, $180,535.25, or a total of $631,807.06. This amount, said the controller, represented only the face of the tax. If to it were added the penalties, interest and costs up to February 12, 1884, $397,868.51, the total due the state amounted to $1,029,675.57. On the date just mentioned, the controller reported that the Central and Southern Pacific railroad companies owed the state and counties $2,730,303.39.

Governor Stoneman, in calling an extra session of the legislature to meet on March 24, 1884, to consider the matter of railroad taxation, said:

> For four years the chief railroad companies of this state have refused to obey the laws imposing taxes on their property.
>
> Legal actions instituted against them to enforce collection, after having been under various pretexts delayed, have lately been terminated by proceedings through which it was practically established, that whilst nothing was legally collectible from these corporations, yet the state was willing to accept whatever they in their discretion saw fit to accord. The humiliating attitude in which the state of California is thus placed must fill the heart of every public-spirited citizen with regret and mortification; whilst the disturbance of our whole financial system, caused by the repeated and persistent delinquency of these companies, no wise man should willingly permit to continue.[27]

The extra session of the legislature adjourned without enacting any law whereby the state could enforce the collection of the delinquent railroad taxes.

In 1884, a settlement of fifty per cent was effected with the railroads. The circuit court, in passing on the assessment of 1884, found that the state board of equalization had included the value of the fences along the railroad, the distance across

[27] *Journal of Senate, Extra Session*, 1884, p. 1.

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the bay of San Francisco, and the federal franchises. The state controller and the state board of equalization maintained that neither of these were included in the assessment, as they could have shown had they been given an opportunity.

By 1885, a new attorney-general had taken office. He refused to compromise with the railroads. As a result the Southern and Central Pacific paid no taxes on property assessed by the state board for that year, nor for 1886 and 1887. From these two roads there was due, at the close of the thirty-ninth fiscal year, in taxes, from 1883 to 1887, inclusive, $2,547,700.61. Of this amount $946,765.81 was due the state. In his report the controller advocated the passage of a reassessment act.

In October, 1887, the Supreme Court of the United States in the cases of *California* v. *Central Pacific Railroad Company* and *California* v. *Southern Pacific Railroad Company,* 127 U. S. 1, held that assessments by the state board of equalization which included fences, ferry-boats or federal franchises were void. After this decision the state board was careful to avoid the assessment of the federal franchise, and the railroads paid their taxes as they became due.

In 1889, the judiciary committee of the assembly conducted an investigation to discover how certain tax cases were settled. Before this committee Creed Haymond, attorney for the Southern Pacific argued that the question of the constitutionality of assessing railroads should be passed upon by the Supreme Court of the United States. By agreement the case of the San Pablo and Tulare Railroad Company was made a test case, and placed on the calender of the federal supreme court. At this time there was pending in the state supreme court the case of *The People* v. *The Central Pacific Railroad Company,* 83 Cal. 393, for the recovery of the state taxes of 1886. A few days before the San Pablo case was to be argued before the federal court, the state court handed down a decision, holding among other things,[28] that the railroads were being assessed under special legislation which was prohibited by the state constitution. Being informed of this

[28] In this case the railroad argued that there were several causes of action improperly united, namely, a cause of action for state and county taxes, that the complaint was ambiguous, unintelligible and uncertain that it did not state sufficient facts to constitute an action.

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decision, the Supreme Court of the United States refused to listen to the argument in the San Pablo case. Thus a second time the state was defeated in its endeavor to have the highest tribunal pass on the question of railroad taxation.

In January, 1895, in the case of *The People* v. *The Central Pacific Railroad Company,* 105 Cal. 576, the court reversed the former decision, and held that legislation affecting an entire class was not special legislation, that the state constitution has placed certain railroads in a distinct class and has established a special mode of assessment. The final case in the long controversy was that of *The Central Pacific Railroad Company* v. *California,* 162 U. S. 91 (March, 1896). The railroad's principal argument in this case was that the assessment of 1887 was invalid because it included the federal franchise. The supreme court, however, ruled that the federal franchise was not included, and that, if the assessment was too high, the railroad company should have complied with the law of California which provided the proper remedy.

In a report[29] dated January 17, 1893, the attorney-general reviewed the railroad tax situation and called the attention of the legislature to three possible ways to settle the vexed question: First, the legislature might pass an act authorizing the attorney-general to accept not less than a certain amount, in settlement for all claims the state may have against the delinquent railroad companies; second, the legislature might pass an act declaring the exact amount to be accepted; third, the legislature might pass a reassessment bill.

On March 23, 1893, the governor approved a reassessment bill.[30] Under this law, every assessment of property since 1879, which had been declared illegal, invalid or irregular, was to be remade. The act, though general in its phraseology, was enacted for the particular purpose of authorizing the state board of equalization to reassess the franchise, roadbed, roadway, rails and rolling-stock of certain railroads operated in more than one

[29] Special Report, *Appendix to Journals of Senate and Assembly,* 30th Session, vol. 1.

[30] *Statutes and Amendments to the Codes,* 1893, p. 290.

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TABLE SHOWING THE "ORIGINAL ASSESSMENT AND THE RE-ASSESSMENT" OF CERTAIN RAILWAY PROPERTIES ASSESSED BY THE STATE BOARD OF EQUALIZATION

	1880	1881	1882	1883	1884	1885	1886	1887
Amador Branch	$283,500	$275,400	$162,027	$164,000	$175,500	$162,000	$162,000	$162,000
	216,000	216,000	.....	.....	.....	.....	.....	.....
California Pacific	1,801,300	1,856,000	1,462,500	1,800,000	2,000,000	2,000,000	2,000,000	2,500,000
	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Central Pacific	12,239,456	15,055,500	13,010,520	18,000,000	24,000,000	22,000,000	20,000,000	18,000,000
	10,456,959	10,456,959	10,456,959	10,456,959	10,878,245	11,153,300	11,153,297	12,525,438
Northern Railway	1,492,758	1,543,050	1,143,000	2,000,000	2,300,000	2,300,000	2,700,000	3,000,000
	914,400	914,400	914,400	1,187,200	1,187,200	1,187,200	1,187,200	1,187,200
Sacramento and Placerville	539,098	485,048	291,048	290,000	291,000	315,250	300,000	300,000
	388,000	388,000	.....	.....	.....	.....	.....	.....
Vaca Valley and Clear Lake	249,725	246,925	246,925	190,000	190,000	190,000	190,000	200,000
	228,400	228,400	.....	.....	.....	.....	.....	.....
Stockton and Copperoplis	597,632	580,190	379,355	400,000	425,000	400,000	350,000	350,000
	414,455	414,455	.....	414,455	.....	.....	.....	.....
San Pablo and Tulare	492,800	552,000	460,000	700,000	950,000	900,000	900,000	900,000
	427,178	427,178	427,178	427,178	427,178	.....	427,178	427,178
Southern Pacific	10,483,518	11,739,915	8,226,135	13,000,000	17,000,000	17,000,000	17,000,000	16,500,000
	8,538,120	8,538,120	8,574,120	8,707,400	9,570,000	9,570,200	9,570,200	10,223,300
South Pacific Coast	.....	.....	.....	.....	.....	.....	.....	750,000
	.....	.....	.....	.....	.....	.....	.....	453,000

The upper row of figures after each name shows the original assessment, and the lower row shows the reassessment. Figures taken from the *Report of the Commission on Revenue and Taxation*, 1906, p. 108.

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county. The table on the preceding page shows the original, as well as the reassessment of certain railway companies.

Under the reassessment act, the railroads paid into the state treasury, as back taxes, $1,686,353.39. Of this sum about $1,000,000 was refunded by the state to the counties through which the respective railroads passed.

The amount of taxes paid by the railroads on property assessed by the state board of equalization is shown by the following table:

Year	Gross receipts state & county	Amount refunded to the counties	Net state receipts
1884	$58,944.34	$38,738.00	$20,206.34
1885	57,698.62	41,152.54	16,546.08
1886	850,819.84*	411,654.35	439,165.49
1887	81,976.83	145,398.71	63,421.88x
1888	90,332.52	56,342.48	33,990.04
1889	588,690.09	370,661.21	218,028.88
1890	668,185.77	375,579.77	292,606.00
1891	597,568.71	364,633.82	232,934.89
1892	600,329.58	416,515.14	183,814.44
1893	585,048.90	397,753.08	187,295.82
1894	1,220,892.48a	738,341.69	482,550.79
1895	1,282,325.99a	812,437.89	469,888.10
1896	1,245,751.19a	779,742.80	466,008.39

x Deficit. a Includes back taxes. * Includes $768,273.25 delinquent taxes for 1880–1884.

The principal questions settled by this fifteen years of continuous litigation were these: First, the courts upheld the provision in the constitution of California for a special method of assessing the franchise, roadway, roadbed, rails and rolling-stock of all railroads operated in more than one county; second, that the state board of equalization could assess no other property than that mentioned in the constitution; third, that franchises granted by the state of California were distinct from franchises granted by the federal government and were subject to taxation; and fourth, that the railroads, in case of being dissatisfied with the valuation of property for taxation, must seek relief from the state board of equalization before appealing to the courts.

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5. Claims Against the Federal Government

a. Indian War Claims

Heretofore we have mentioned only one of the numerous claims of California against the federal government. We now proceed to review the "Indian War Claims," the "Five per cent Claim," the "Direct Tax Claim," and the "Civil War Claims."

First, as to the Indian war claims. During the first decade of the state's history the federal government failed to give adequate protection to the frontier settlers. The state assumed the responsibility of defending and protecting the property of the citizens against Indian depredations. At this time the state treasury was empty, and the state, in order to secure the necessary funds to suppress Indian uprisings, was obliged to borrow money. An act of February 15, 1851,[31] authorized the state treasurer to negotiate a loan of not more than $500,000. The bonds, bearing 12 per cent interest, payable annually or semi-annually as the contracting parties might desire, could be redeemed at any time after five years, and had to be redeemed within ten years from the date they were issued.

Under this act $200,000 worth of bonds were sold before it was repealed on May 3, 1852. The act[32] of this date, beside repealing the former act, appropriated $600,000 to be used to pay the expenses incurred in suppressing Indian hostilities. The bonds issued under this act bore seven per cent interest and were made payable in ten years. The principal and interest were to be paid out of any moneys appropriated by Congress to defray the expenses of the state of California incurred in suppressing Indian uprisings. Should the amount appropriated by Congress not be sufficient to pay all the liabilities of the state, the act provided that the claims were to be valid claims against the state and paid out of the state treasury. Under this and supplementary acts, the state issued $638,100 worth of bonds. An important difference between the act of 1851 and that of 1852 was that under the former the state was directly liable for the debt incurred, while under the latter, only in case the federal government failed

[31] *Statutes of California*, 1851, p. 520.
[32] *Ibid.*, 1852, p. 59.

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to appropriate the necessary money. In the claims presented to Congress, California attempted to recover enough to pay the indebtedness created under both laws. On August 5, 1854,[33] Congress appropriated $924,259.65, the amount due to date, to pay the claims of California. The California authorities were of the mistaken opinion that the entire sum would at once be paid over to the state. Under an act of May 4, 1855, statements duly certified by the officers were forwarded to the secretary of war, Mr. Jefferson Davis, who refused to pay any claims until he had examined them. On April 19, 1856, the legislature appointed a board of war debt commissioners to go to Washington and assist in the examination of the claims. Upon the arrival of the commissioners, there at once arose a difference of opinion between them and the federal authorities. The former maintained that the federal statute of August 5, 1854, applied to all Indian war indebtedness; the latter that it applied only to such as was incurred prior to January 1, 1854. The third auditor of the treasury department ruled that the act in question did not apply to debts created in 1854 and 1855, and that if the appropriation was sufficient, interest would be allowed until August 5, 1854, otherwise, only to January 1, 1854. This ruling was approved by the secretary of war. The interest coupons from January 1, 1854, to September 1, 1856—the time of payment—were detached from the bonds and returned unpaid to California. According to the report of the committee of the senate and of the assembly, dated February 21, 1872, the federal government paid $197,000 of the bonds issued under the act of 1851, and $598,450 of those issued under the act of October 1852.

By the act of April 25, 1857, the legislature appropriated $410,000 to pay a miscellaneous group of Indian war claims,

[33] *U. S. Statutes,* 33rd Cong. 1st Sess., p. 582. Section 3(9) of the act of August 5, 1854, read: "And be it further enacted, That the secretary of war be, and he is hereby, authorized and directed to examine into and ascertain the amount of expenses incurred and now actually paid, by the state of California, in the suppression of Indian hostilities within the said state, prior to the first of January, Anno Domini, eighteen hundred and fifty-four, and that the amount of such expenses, when so ascertained, be paid into the treasury of said state: Provided, That the sum so paid shall not exceed in amount the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents; which amount is hereby appropriated out of any money in the treasury not otherwise appropriated."

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dating from 1851 to 1857 inclusive. These claims were to be examined by a board of examiners composed of the state treasurer, the state controller and the quartermaster-general. The state treasurer was authorized to sell bonds if necessary, but these could be redeemed only with money recovered from the federal government. In 1861 Congress appropriated a sufficient sum to pay the claims arising under the act of 1857, but made no provision to pay the balance of the Indian war debt of 1851 and 1852. Of the latter the state had paid up to May 27, 1878, $23,200. On that date State Controller W. B. C. Brown reported the following Indian war debt as outstanding:[34]

Bonds of 1851 outstanding (principal)	$3,000.00
Interest on same from date to maturity	3,531.00
Bonds of 1852 outstanding (principal)	16,800.00
Interest on same from date to maturity	9,448.60
Coupons outstanding, cut from bonds of 1851, redeemed by the United States government and being for interest from January 1, 1854, to September 1, 1856	63,040.00
Coupons outstanding, cut from bonds of 1852, redeemed by the United States government and being for interest from January 1, 1854, to September 1, 1856	110,282.66
	$206,102.26

In 1882 Governor George C. Perkins appointed John Mullan as agent for California to present the matter of the Modoc Indian war claims before congress. He was successful in recovering for the state $495.72 on account of the Modoc Indian wars in Siskiyou and Modoc counties and $3,945.61 for private individuals who sustained losses during and because of the war. In July the governor appointed him as the state's agent to recover the claims mentioned above, but in this endeavor he was unsuccessful.

b. Five Per Cent Claim

The act admitting California to the union forbade her to tax the land and property of the United States, but contained a provision stating that she was admitted on the same footing as the other states. These other states had been denied the right to tax the public lands of the United States situated within their borders, but in lieu thereof were allowed from two to ten per

[34] *Controller's Report*, 1878–79, p. 22.

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cent of the proceeds realized from the sale of the lands in question. Most of the states were allowed five per cent. No allowance had been made in the case of California. Whether this exception was intentional is difficult to ascertain. The discrimination against the state was called to the attention of the legislature in 1857 by Governor John B. Weller and Superintendent of Public Instruction Andrew J. Moulder. On March 11, 1858, the legislature passed a resolution, urging the California representatives in Congress to use their influence to recover five per cent of the proceeds from the sale of the public lands. In 1878 William Minis, surveyor-general of California, appointed John Mullan as agent for California to prosecute the "Five Per Cent Claim." His appointment was later confirmed by the governor and the legislature. Mr. Mullan at once proceeded to Washington and presented the case to the commissioner of the general land office. Failing to receive a satisfactory hearing, he turned his attention to Congress. After ten years of strenuous work and political manipulation he succeeded in getting a bill through the Senate, and in having it favorably reported to the House of Representatives. Before the house voted on the measure, Mullan's appointment was revoked by Governor Waterman. Being informed of this action of the governor, the house failed to pass the bill reported to it. For the time being active effort to recover the equitable claim was suspended. Various state officials in their biennial reports alluded to the "Five Per Cent Claim," but it was not until June 27, 1906, that the issue was successfully terminated. The victory for California must be attributed, in part, to the work of Governor Pardee, and in part to the nation-wide sympathy following the San Francisco earthquake and fire of April 18, 1906. Up to June 30, 1911, the State of California, on account of the "Five per cent Claim," had received from the federal government $1,062,312.31, which, according to a provision of the state constitution, has become a part of the perpetual school fund.

c. The Direct Tax Claim

"The Direct Tax Claim" consisted of two parts: first, the claim to the fifteen per cent discount; and, second, the claim to the face of the tax paid. California's quota of the direct tax, it

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will be remembered (see Chapter III), amounted to $254,538.67. On all sums paid to the federal government on or before June 30, 1862, the states were allowed a discount of fifteen per cent, and on all sums paid on or before September 30, 1862, a discount of ten per cent. California paid no part of the tax before June 30, 1862, but offered to pay $70,932.56 before September 30, 1862. Because of misunderstandings between the state treasurer and the assistant treasurer of the United States, actual payment was not made until after September 30, 1862. The state treasurer, however, considered that the payment was made at the time he offered the money and so deducted ten per cent, or $7,093.25, paying over on October 7 only $63,839.31. The United States treasury department had always maintained that California still owed the federal government $7,093.25 of the direct tax. At the time when Mullan succeeded in recovering $495.72 of the Modoc Indian war claim, the auditor merely deducted it from the above amount, and reported the balance due the United States from California to be $6,597.53.

John Mullan, who had charge of the "Direct Tax Claim," realized that California had no legal claim to the fifteen per cent discount, but that she did have a claim to it in equity, because she had assumed all the expenses for assessing and collecting the federal direct tax. After failing to recover by direct means the amount claimed, Mullan resorted to an indirect method. He was able to persuade the committee on claims of the house of representatives to attach the following "rider" to the deficiency bill:

> To enable the secretary of the treasury to pay the states of California, Oregon and Nevada, respectively, fifteen per cent of the amount of their quota of the direct tax of 1861, on account of the proper cost for assuming the collection of the same, as follows: To the state of California, $37,191.17; to the state of Oregon, $5,271.10; to the state of Nevada, $688.90.

This deficiency bill was approved by the President on July 7, 1884. In making the final settlement, the fifth auditor of the treasury department and the comptroller of currency allowed California fifteen per cent on the $254,538.67, or $38,180.80, instead of $37,191.17 as stated in the above bill. From this amount they deducted the $6,597.53 which, previously stated,

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the state of California still owed the United States on the direct tax account. Having succeeded in recovering the fifteen per cent discount claim, Mr. Mullan next attempted to recover the face value of the direct tax. In this endeavor he was by no means laboring alone. Agents and representatives of other states also besought Congress to refund to the states the money paid as their share of the direct tax. Their plea was based primarily on the ground that since some states had paid none of the tax, some only part, while others had paid all of it, the only way to bring about a just settlement was for the federal government to repay to the several states the respective amounts paid by them. In 1889 a bill to this effect passed the two houses of Congress, but was vetoed by President Cleveland. During the following congress another bill was introduced and became a law[35] March 2, 1891. Under this statute California recovered, according to the report of the state controller, $208,246.89, which sum was paid by Governor Markham into the state treasury.

d. The Civil War Claims

The revised statutes of the United States provided that no claims against the federal government for collecting, drilling or organizing volunteers, to suppress the rebellion, should be paid, unless presented on or before June 30, 1874. During the session of the state legislature, 1871–2, Senate Concurrent Resolution No. 36 was passed. This required that the "Rebellion War Claims" should be properly presented to the federal government for payment. Governor Newton Booth appointed Messrs. James E. Hale, of Placer County, and Thomas M. Nosler, of San Francisco, to represent the state. The necessary papers were forwarded to Washington, where they were stored, without having been examined, for over seven years. In the meanwhile, the time to present such claims had expired. On June 27, 1882, largely through the efforts of John Mullan, who had been appointed to prosecute the "Rebellion War Claims," an act was passed which allowed the claims of California, Oregon and Nevada to be examined. An act of 1886 provided for a board of state war

[35] *U. S. Statutes*, 51st Cong., 2nd Sess., Chap. 496, p. 822.

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claims examiners. This board was appointed in 1889, examined and reported the following claims:

Amount expended in recruiting California volunteers	$24,260.00
Amount expended in payment of adjutant-general	38,083.17
Amount expended in organizing volunteers	5,639.34
Amount expended in paying volunteer officers	23,277.34
Amount expended as extra pay to California volunteers	1,459,270.21
Amount expended in payment of bounty to enlisted men	900,839.50
Amount expended in payment of interest on money borrowed	1,500,545.86
Amount expended in paying militia accounts	468,976.54
Total	$4,420,891.96

According to a report from the state controller, none of these claims have been allowed by the United States government.

In 1889 Governor Waterman revoked the appointment of Mr. Mullan[36] as state agent to prosecute the various claims against the federal government. The governor argued that Mullan's appointment was illegal. The legislature had never created the office to which he had been appointed. He also objected to the large contingent fee—20 per cent of the money recovered—allowed Mullan. In 1892, Mullan presented to the state board of examiners two claims, one for $43,271.57, the other for $2,344.73. The first of these was referred to the attorney-general for investigation. The second, by a vote of two to one, was allowed and reported to the legislature. In 1894 the attorney-general recommended that Mullan be allowed $41,649.37, this being 20 per cent of the amount California actually recovered under the federal statute of 1891. Not until March 22, 1905, did the legislature appropriate $45,616.30 to pay the claims of Mullan, the last of which was paid in 1910.

6. The State Debt

Though the funded debt from 1880 to 1893, inclusive, was reduced over one million dollars, yet a greater reduction could have been made had the provisions of the refunding act of April 2, 1870, under which the bonds of 1873 were issued, been carried

[36] Mr. Mullan's report concerning these various claims mentioned, is to be found in *Appendix to Journals of Senate and Assembly*, 28th Session, vol. 8.

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out. During the period all the state capitol bonds and other bonds held by private parties were paid.

At the close of the fiscal year 1880, the funded debt of the state amounted to $3,403,000. This debt was distributed as follows: $1,737,500 was held in trust by the state for the benefit of the school fund; $952,500 for the benefit of the university fund, and $713,000 was in the hands of private individuals.

On June 30, 1882, the funded debt of the state amounted to $3,303,000; the floating debt to $286,749.69; making an aggregate of $3,589,749.69. On its funded debt the state was paying six and seven per cent interest. This seemed like an exorbitant rate to the state controller, who advocated that the portion of the debt held in trust by the state for the benefit of the school and university funds be refunded at a lower rate of interest. The legislature, however, did not approve the controller's suggestion.

During the two years following, the funded debt was reduced by $99,500. The balance of the outstanding soldiers' relief bonds ($95,500) and $4,000 of the bonds of 1873, were paid. After these payments were made, the funded debt, at the close of the fiscal year, June 30, 1884, amounted to $3,203,500; which, added to the un-funded debt of $126,386.83, made a total of $3,329,-886.83.

From June 30, 1884, to June 30, 1886, the state funded debt was reduced by $250,000, this being the amount of the state capitol bonds issued under the act of 1870. By paying off these bonds the amount of bonds held in private hands was reduced from $513,500 to $339,500, while the amount of bonds held in trust by the state for the benefit of the school fund was reduced from $1,737,500 to $1,661,500, or $76,000. During these two years provisions were made to redeem the state capitol bonds of 1872, which became due July 1, 1887. These were promptly paid, and by June 30, 1888, the funded debt of the state amounted to $2,703,500, composed of the following items:

State funded debt of 1857 (interest had ceased)	$5,000
State funded debt of 1860 (interest had ceased)	500
State funded debt of 1873—at 6 per cent interest	2,698,000
Total	$2,703,500

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The controller, in his report for the thirty-eighth and thirty-ninth fiscal years (1886-1888) requested the legislature to provide for the payment of the bonds of 1873. This the legislature failed to do, whereupon the controller made a more urgent appeal in his report for the fortieth and forty-first fiscal years (1888-1890). On June 30, 1890, he reported the funded state debt to be $2,642,000, held as follows:

Bonds in private hands	$283,000
Bonds held in trust for the state school fund	1,541,500
Bonds held in trust for the university fund	817,500
Total	$2,642,000

It was now apparent to the legislators that immediate action on their part was necessary. The state bonds became due in three years. There was no money in the state treasury with which to redeem them. On March 31, 1891, the governor approved a refunding act. This act created a board of loan commissioners consisting of the governor, the state controller and the state treasurer, who were to liquidate and pay the outstanding bonds and reduce the burden of taxation.

Section 2 of the refunding act authorized the board to issue $2,528,500, 20-year, 4 per cent bonds. The proceeds from the sale of the bonds were to be paid into the state treasury and applied to the payment of the bonds of 1873, if the holders thereof did not desire to exchange them for the new bonds. The state board of equalization was to levy an annual tax sufficient to pay the interest and principal. For the first five years the tax levy was to be large enough so that the amount realized would equal 7 per cent of the total amount of bonds issued; for the next ten years, 12 per cent, and thereafter, until the bonds were paid, 15 per cent.

At the election of November 8, 1891, the people rejected the refunding act. Fortunately for the state, the amount of bonds held by private individuals was comparatively small. According to the controller's report, this item on June 30, 1892, amounted to but $251,000, while the entire funded debt of the state was $2,533,500. The controller recommended that the state pledge

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its faith and credit to pay annually the interest on the bonds held in trust for the benefit of the school and university funds, and that the bonds held by private parties be paid at once. An act of February 27, 1893, transferred $120,000 from the general fund to the interest and sinking fund, for this purpose and required the treasurer of the state to call in the bonds of 1873. On March 3, 1893, the governor approved the act whereby the state agreed to continue to pay interest on the bonds held in trust for the benefit of the school and university funds. The principal of the bonds held in trust by the state for the school fund amounted to $1,526,500, the semi-annual interest to $45,795, while the principal of the bonds held in trust for the university fund amounted to $751,000, and the semi-annual interest to $24,922.50. By June 30, 1894, all of the bonds held in private hands had been paid.

7. The County Debt

The county debt shows a much more rapid decrease from 1880 to 1895 than does the state debt. As the following table shows, the funded debt of the counties for the fiscal year closing June 30, 1880, was $8,281,340.37, and for 1894, $5,432,739.40, a decrease of $2,848,600.97. During the same interval the floating debt of the counties was reduced from $1,763,337.75 in 1880, to $209,357.48 in 1894, or a decrease of $1,553,980.27. The decrease in both the funded and floating debt amounted to $4,402,581.24.

Table Showing County Indebtedness, 1880–1894

Year	Funded debt	Floating debt	Total
1880	$8,281,340.37	$1,763,337.75	$10,044,678.12
1881	9,117,916.32	1,680,048.99	10,797,965.31
1882	8,587,220.16	1,588,212.60	10,175,432.76
1883	8,290,204.53	1,113,847.64	9,404,052.17
1884	5,674,672.92	542,895.45	6,217,568.37
1885	7,717,741.77	667,445.74	8,385,187.51
1886	7,455,721.00	301,095.90	7,756,816.90
1887	6,798,420.00	344,228.23	7,142,648.23
1888	7,074,203.22	219,130.52	7,293,333.74
1889	7,031,372.72	254,453.94	7,285,826.66
1890	6,722,594.57	240,266.64	6,962,861.21

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1891	6,617,372.72	215,916.98	6,833,289.70
1892	6,149,813.82	106,487.95	6,256,301.77
1893	5,894,303.81	226,045.87	6,120,349.68
1894	5,432,739.40	209,357.48	5,642,096.88

NOTE.—In the following years the debt of these counties was not reported:

1880—Lake and San Benito.
1882—Del Norte and Lassen.
1883—Del Norte, Fresno, Inyo, Modoc, Sonoma and Yolo.
1884—Del Norte, Inyo, Lake, Merced and Sonoma.
1885—Humboldt and Mendocino.
1886—Del Norte, San Diego, Sierra, Siskiyou, Stanislaus and Sutter.
1887—Del Norte, Fresno, Lassen, Napa, Placer, San Mateo, Solano, Sonoma, Tulare and Yolo.
1888—Del Norte, Fresno, Placer, San Mateo.
1889—Del Norte, San Mateo and Sutter.

Figures from the report of the Controller of the State.

State Receipts and Expenditures

The total state receipts and expenditures from 1880 to 1895 were as follows:

Year	Total receipts	Total expenditures	Deficit	Surplus
1880	$3,682,698.04	$4,019,657.24	$336.959.20	.....
1881	4,585,313.66	5,218,631.56	633,317.90	.....
1882	4,532,394.41	4,252,102.13	.....	280,292.28
1883	4,224,825.77*	4,110,515.08*	.....	114,310.69
1884	4,492,125.97	4,127,768.20	.....	364,357.77
1885	4,363,235.59	5,425,988.40	1,062,752.81	.....
1886	6,476,230.40	5,787,612.96	.....	688,617.44
1887	5,449,261.53	5,240,379.20	.....	208,882.33
1888	7,050,420.17	6,599,066.07	.....	451,354.10
1889	7,517,708.54	7,224,492.69	.....	293,215.85
1890	9,590,572.78	7,946,616.45	.....	1,643,956.33
1891	9,141,999.95	7,924,772.09	.....	1,217,227.86
1892	7,177,132.32	7,764,738.15	587,605.83	.....
1893	7,204,992.57	9,025,243.02	1,820,250.45	.....
1894	9,322,340.52	7,997,243.96	.....	1,325,096.56

* After 1883, these figures include the county taxes on railroad property assessed by the state board of equalization.

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CHAPTER VI

THE REVENUE LAWS AND STATE RECEIPTS. 1895-1910

1. Introduction

In 1895 California, like other sections of the United States, was still suffering from the effects of the panic of 1893. The flurry caused twenty-five banks in the state to close their doors temporarily. Of these, four failed to resume business. Beside the financial disturbances there were partial crop failures in 1893 and 1894. Wages, prices, and property values declined. In 1892 the total valuation of property for purposes of taxation amounted to $1,275,678,822; in 1893, to $1,216,380,398, and in 1894 to $1,204,347,291. These figures show a decrease of $71,-331,531 during a period of three years. While property was depreciating in value, and the number of unemployed becoming larger and larger, the state, county, and city expenditures continued to increase. Because of the burden of taxation the people became impatient and demanded a greater degree of economy in public affairs. Once more the question of taxation became a party issue. The Republicans adopted a plank in their platform reading: "We pledge our nominees that the state tax levy, except in cases of war or insurrection, shall not exceed for any one year 50 cents on each $100 of assessed valuation of property, and as much less as a most economical administration of the state government will permit."[1] This was a conservative statement compared with that of the Democrats, who said: "We hereby pledge our nominees that the state taxes will not exceed 45 cents on each $100 assessed valuation according to the valuation of 1893."[2] At the state election, held on November 6, 1894, the Democratic candidate, James H. Budd, was elected governor. In his inaugural address he referred to the subject of taxation in these words:

[1] *Appendix to Journals of Senate and Assembly*, 31st Sess., vol. 1.
[2] *Ibid.*

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"But the general condition of the state extravagance in California is a matter of common notoriety. Public knowledge of our recklessness in this regard has transgressed our territorial limits and gone to the country, deterring immigration and the influx of needed capital to develop our latent resources. Prudent citizens of other states, especially of the more economically managed Eastern commonwealths, naturally hesitate before determining to move to and settle in a state whose current annual tax rate is equivalent to an assessment of between $7 and $8 upon every man, woman, and child of the population."[3]

In spite of these emphatic utterances no important changes were made in 1895, in the revenue laws or the financial policy of the state. In fact, the general property tax law continued until 1910, with few changes. Since 1910 this law has become, as we shall see in the following chapter, the local tax law with minor exceptions. It is our purpose to give in this chapter a summary of the revenue laws of California. We shall speak in particular of the property tax, the inheritance tax, the franchise tax, and of certain fees collected by various state officers.

2. The General Property Tax

a. The Base

The constitution requires that all property, unless exempt, shall be taxed in proportion to its value, to be ascertained as provided by law.

b. Exemptions

The legislature has no power to exempt property from taxation. During the last ten years the constitution has been frequently amended and the classes of property exempt from taxation have been gradually extended. Prior to 1894, the only property exempt was that belonging to the United States, to this state, or to any county or municipal corporation of this state; property used exclusively for free public schools; free museums and public libraries, and growing crops. On November 6, 1894, the people ratified an amendment exempting fruit and

[3] *Appendix to Journals*, etc., 31st Sess., vol. 1.

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nut-bearing trees under four years of age from the time of planting in orchard form, and grapevines under three years of age from the time of planting in vineyard form.

At the election on November 6, 1900, several amendments exempting property from taxation were ratified. One exempts the property of Leland Stanford Junior University, on the condition that residents of California shall not be charged any tuition, unless such charge is authorized by the legislature. Another amendment exempts the property of the California School of Mechanical Arts. The trustees of this institution must render, to the governor, an annual report of their proceedings and financial accounts. The legislature has the power to modify, suspend or revive the exemption granted by the amendment. Still another amendment, ratified at the above date and known as section 1½ of article XIII of the constitution, exempts buildings and so much of the real property on which they are situated as may be required for convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship. This exemption does not extend to buildings rented for religious purposes. Any person claiming exemption under this section must make an annual report to the assessor, the same as for other property listed for taxation. He must accompany such report with an affidavit stating that the building is used solely and exclusively for religious worship; that the described portion of the real property claimed as exempt is required for the convenient use and occupation of such building, and that the same is not rented for religious purposes, and rent received by the owner thereof. On November 4, 1902, an amendment was ratified, which exempts the bonds issued by the state of California after 1902, or by any county, city and county, municipal corporation or district, including school, reclamation and irrigation districts.

On November 8, 1904, an amendment exempting from taxation the property of the California Academy of Science[4] was ratified. At the same election section 10½ of article XIII was ratified. It reads: "The personal property of every householder to the

[4] Exemption to these institutions is granted upon the same conditions as those imposed upon the California School of Mechanical Arts.

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amount of one hundred dollars, the articles to be selected by each householder, shall be exempt from taxation."

On November 6, 1906, the people ratified an amendment exempting the property of the Cogswell Polytechnical College.[4] At the same election section 5 of article XIII, declaring every contract whereby a debtor agreed to pay the tax on money loaned or on a mortgage, deed of trust or other lien, null and void, was repealed. At the election on November 8, 1910, section 4 of article XIII, concerned with the taxation of mortgages, was repealed and the definition of property in section 1 of article XIII amended so as to read:

> The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation.[5]

c. Assessment

i. Definitions

The law requires all property to be assessed as real estate or personal property. In practice the valuations are made under a threefold division—realty, improvements, and personalty. "Realty" includes the possession of, claim to, ownership of, or the right to the possession of, the land; all timber belonging to individuals or corporations, growing or being on the lands of the United States; water ditches constructed for mining, manufacturing or irrigation purposes; wagon and turnpike toll roads and also "improvements." The term "improvements" includes all buildings, structures, fixtures, fences, and improvements affixed to the land, except telephone and telegraph lines; all fruit,

[5] At a recent election, October 10, 1911, the people ratified an amendment which exempts from taxation $1,000 worth of property of every person who has served in the army, navy, marine corps or revenue service of the United States in time of war, provided such person's property does not exceed $5,000 in value.

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nut-bearing or ornamental trees and vines, not of natural growth, except fruit and nut-bearing trees under four years of age, and grapevines under three years of age, and alfalfa[6] after the first year's planting. "Personalty" includes money, credits, dues, franchises and everything capable of ownership not included in the term "real estate." It also includes telephone and telegraph lines. The constitution and the law furthermore mention stocks and bonds, but these forms of personal property are no longer taxable if they are issued by California corporations. The courts have held and the code provides (sec. 3608) that to tax both the property and the stocks and bonds would be double taxation.

ii. Taxpayer's Declaration

Every person, after a demand has been made upon him by the assessor, must furnish the assessor a written statement,[7] under oath, showing all the property he owns, or has in his possession, or under his control, at twelve o'clock noon on the first Monday in March. Failure to comply with the assessor's demand subjects the person to an arbitrary assessment, which cannot be reduced by the county board of equalization, but may be increased by it. The person, in filing his statement, need not value his property, for the valuation must be determined by the assessor. A person must furnish the assessor with a description of his land so that the assessor can assess it according to law; that is, in parcels or subdivisions of six hundred and forty acres or less. Any person who has knowledge that property has not been assessed because of the negligence of the assessor, shall file an affidavit to that effect with the board of supervisors. After the filing of such an affidavit, the district attorney must bring an action to recover from the assessor's bondsmen the taxes lost because of the non-assessment of the property in question.

iii. Powers and Duties of the Assessor

In considering the duties of the assessor, it may clarify our discussion if we keep separate the powers and duties involved in

[6] Alfalfa was included under the term "improvements" by an amendment to the code March 18, 1905.

[7] For the details of this statement see page 278 of preceding chapter.

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the assessment of property and the clerical work which he must perform. The assessor must assess all taxable property, except that assessed by the state board of equalization, between the first Monday in March and the first Monday in July. All property subject to taxation is to be assessed at its "full cash value," that is, the amount at which the property would be taken in payment of a just debt from a solvent debtor. All property, except that assessed by the state board of equalization, except certain franchises, ferryboats plying between two counties, and except toll bridges connecting two counties, must be assessed in the county, city, city and county, town, township, or district in which it is situated. Lands and improvements thereon must be valued separately. Cultivated lands of the same quality and similarly located shall be assessed at the same value. Lands must be assessed in subdivisions not exceeding six hundred and forty acres. State lands which have been sold, but for which no patent has been issued, must be assessed the same as other land, but the person claiming the land shall be allowed a deduction equal to the amount he still owes the state.

Until 1910, franchises granted by the county, city and county, or city authorities, were to be assessed in the county, city and county, or city within which they were granted.[8] If they were granted by any other authority they were to be assessed in the county, or city and county, in which the firm or corporation had its principal place of business. Vessels are assessed as personal property. The wharves, storehouses, and all stationary property of ferries connecting two points located in different counties must be assessed in the counties where located. The value of the franchise, and water craft, and of all toll bridges connecting more than one county, must be assessed in equal proportions in the counties connected by such ferries or toll bridges. All vessels must be assessed in the county where they are required to be registered. Vessels which are registered outside the state, but ply in the waters of the state, must be assessed where the owner resides. The same is true of all boats and small water crafts which are not required to be registered. When the owner

[8] See the *Report of the Commission of Revenue and Taxation*, 1906, pp. 41 and 42.

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or claimant of property is absent, the assessor must estimate the value of the property, and assess it to the owner, if known; if not, then to "unknown owners." Debts due to bona fide resident of the state shall be deducted from solvent credits.

The assessor may require from any person found in his respective county, an affidavit, giving his name, place of residence or place of business, and stating whether he is the owner of any taxable property. Refusal to comply with this request may subject the person to a fine of one hundred dollars,[9] to be recovered by an action brought by the assessor in any police or justice court. The assessor receives one-half of the fine. The assessor may subpeona and examine any person who owns, stores or controls property included in the statement filed with him. He has the power to assess, at not more than ten times its value, any property which the owner, in order to escape taxation, has wilfully concealed, removed, or transferred. He must seize and sell enough personal property to pay the taxes due on personal property unsecured by real estate, if the owner of such property refuses to pay the amount due.

The assessor must prepare an assessment book or roll, as directed by the state board of equalization. In this book must be listed, under appropriate headings, all the property in his county. He must prepare an index to the assessment book. This index must show the name of each taxpayer,[10] the page on which his assessment may be found, and any other material or information required by the state board of equalization. If requested by the proper authorities of incorporated cities and towns, on or before the first Monday in March of each year, the assessor must furnish such cities and towns a certified copy of the assessment book, as relates to property located within the corporate limits of the said cities and towns. This copy must be furnished on or before the third Monday in July. If he is requested to furnish such a copy, he may charge five cents per folio of one hundred words, for each copy of the assessment book furnished. On the

[9] Act of March 23, 1901, p. 647, increased the fine from $20.00 to $100.00.

[10] For the contents of the assessment book see page 280. An amendment of March 28, 1895, requires that the assessor give the person's post-office address if known. Prior to that time, he merely had to give the name of the person to whom the property was assessed.

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second Monday of July of each year he must transmit to the state board of equalization a statement showing:

1. The several kinds of personal property.
2. The average and total value of each kind.
3. The number of live-stock, number of bushels of grain, the number of gallons of wine or liquors, and the number of pounds or tons of any article sold by the pound or ton.
4. When practicable, the separate value of each class of land.
5. A true statement of the agricultural and industrial pursuits and products of the county and such other statistical information as the board may require.

d. Equalization

i. County Board of Equalization

The county board of supervisors, sitting as a county board of equalization, must equalize the assessment of their respective counties between the first and third Monday in July. The board has no power to strike off property from the assessment roll, nor to add any to it, nor to increase or decrease the entire assessment roll, except by a process of changing individually every assessment of property on the roll. It may order the assessor to add to the roll property which has escaped his attention. After the original valuation has been made, the board may add to or reduce its value. The board may increase without any complaint having been filed, but no increase is valid unless the party affected thereby has been given five days' written notice. Before the board can reduce, upon request, any assessment, the person seeking such reduction must file a written application with the board and must answer all questions relative to the assessment of his property. The supreme court of California has repeatedly held that if the assessor made an error in his judgment in determining the value of property, the remedy lies in an application to the board of equalization, and not in an appeal to the courts. The courts will not interfere except in case of fraud.

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ii. State Board of Equalization

We have reviewed, in the preceding chapter, the general duties and powers of the state board of equalization. These have not been changed to any material degree from 1895 to 1910, except as modified by the adoption of the senate constitutional amendment number one, on November 8, 1910, of which more will be said later. Heretofore, the board has sought to attain a certain degree of uniformity in the valuation of property among the different counties, by both indirect and direct proceedings. Under its general grant of power, it has issued rules and regulations governing assessors when assessing property. Members of the board have frequently visited the different counties and have made a personal investigation of how property was being valued for purposes of taxation. The indirect influence of the board on the valuation of property is, perhaps, best illustrated by a reference to the assessment for 1907. After the San Francisco earthquake and fire, the state board became alarmed at the possible decrease in the assessment roll. Should the anticipated decrease take place, the board would have had to raise the valuation, or the tax rate, or both. With the hope of preventing such an occurrence, the members of the board visited every county of the state and urged the assessors to increase the valuation of property, or at least to keep it up to the figures of the preceding year. The result of their visit was a happy surprise. When the valuation of property was completed it showed an increase of $251,618,063 over that of the previous year, and, in fact, was one of the largest increases for any one year since the adoption of the code in 1872.

Directly, the state board of equalization can increase or decrease only the entire assessment roll of a county. It cannot select this or that individual's assessment and change it.[11] Neither can it, nor the county board, raise any mortgage, deed of trust, contract or other obligation by which a debt is secured, or money or solvent credits above their face value. The percentages by which the state board has increased or decreased the assessment of various counties is shown by the following table:

[11] Since 1910 the state board of equalization assesses franchises, etc.

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TABLE SHOWING THE PERCENTAGE THE STATE BOARD OF EQUALIZATION INCREASED OR DECREASED THE ASSESSMENT OF PROPERTY FOR CERTAIN COUNTIES (1895-1910)

County	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910
Alameda	....	5	*10*	....	....	....	....	....	20	....	....	....	....	....	10	....
Alpine	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Amador	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Butte	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	....	....
Calaveras	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Colusa	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Contra Costa	*10*	....	....	....	....	....	....	....	10	....	....	....	....	....	....	....
Del Norte	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
El Dorado	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Fresno	*10*	....	*10*	....	....	....	....	....	....	....	....	....	....	....	20	....
Glenn	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Humboldt	....	....	*15*	....	....	....	....	....	10	....	....	....	....	....	....	....
Imperial	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Inyo	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Kern	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	20	....
Kings	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	20	....
Lake	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Lassen	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Los Angeles	....	....	*10*	....	....	....	....	....	....	....	....	....	....	....	40	....
Madera	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Marin	*10*	....	*15*	....	....	....	....	....	15	....	....	....	....	....	....	....
Mariposa	*10*	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Mendocino	....	....	*15*	....	....	....	....	....	15	....	....	....	....	....	....	....
Merced	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Modoc	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Mono	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Monterey	*10*	5	*10*	....	....	....	....	....	....	....	....	....	....	....	20	....
Napa	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	....	....
Nevada	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Orange	*10*	....	*15*	....	....	....	....	....	15	....	....	....	....	....	50	....
Placer	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Plumas	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Riverside	*10*	....	*15*	....	....	....	....	....	15	....	....	....	....	....	40	....
Sacramento	....	5	*10*	....	....	....	....	....	15	....	....	....	....	....	....	....
San Benito	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
San Bernardino	....	5	*10*	....	....	....	....	....	15	....	....	....	....	....	33 1/3	....
San Diego	*10*	*10*	*10*	....	....	....	....	....	....	....	....	....	....	....	....	....
San Francisco (city and county)	....	20	....	....	....	....	....	....	30	....	....	....	....	....	10	....
San Joaquin	*10*	....	*10*	....	....	....	....	....	....	....	....	....	....	....	15	....
San Luis Obispo	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
San Mateo	....	....	*10*	....	....	....	....	....	10	....	....	....	....	....	....	....
Santa Barbara	....	....	*15*	....	....	....	....	....	10	....	....	....	....	....	25	....
Santa Clara	....	5	*10*	....	....	....	....	....	15	....	....	....	....	....	10	....
Santa Cruz	....	....	*10*	....	....	....	....	....	10	....	....	....	....	....	15	....
Shasta	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Sierra	....	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Siskiyou	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Solano	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	....	....
Sonoma	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	....	....
Stanislaus	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	25	....
Sutter	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Tehama	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....
Trinity	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Tulare	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	20	....
Tuolumne	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Ventura	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	100	....
Yolo	*10*	....	*15*	....	....	....	....	....	10	....	....	....	....	....	15	....
Yuba	*10*	....	*15*	....	....	....	....	....	....	....	....	....	....	....	....	....

NOTE.—Figures in italics show per cent of decrease.

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As shown in the table, in 1895 the state board of equalization reduced the valuation of property as returned to it by the county auditors, by ten per cent in twenty-six counties of the state. The total reduction amounted to $36,696,640. In 1896 the assessment of Monterey County was reduced five per cent; while the assessments of Alameda, Sacramento, San Bernardino, and Santa Clara Counties were each increased five per cent, and that of the City and County of San Francisco twenty per cent. For that year the total reduction amounted to $3,086,821, the total increase to $74,113,818, and the net increase to $71,026,997. In 1897 the assessment of thirty-one counties was reduced fifteen per cent, of eleven counties, ten per cent, the total reduction for the year being $86,993,201. From 1897 to 1903, the board made no changes in the valuation of property. In the latter year it abandoned its former policy of equalizing downward and increased the assessments of twenty counties. The most marked increases were the valuations of the City and County of San Francisco, which the board raised thirty per cent, and that of Alameda County, which it raised twenty per cent. The increase for all the counties was $178,423,555. In its report for 1907-8, the state board of equalization asked the legislature to propose a constitutional amendment increasing its power. Long before this time the state board had noticed inequalities in the assessment of property, which it was powerless to remedy because of the decision of the supreme court in the Wells, Fargo and Company case.[12] The board desired to have the power to increase or lower any assessment on the assessment roll; to increase or lower the entire assessment of any class of property, such as real estate, improvements or personal property, excepting money, solvent credits or mortgages; to increase or lower the assessment of any species of any class of property, as city and town lots, buildings, horses or cattle, etc. The legislature adjourned without acting favorably upon the recommendations of the state board of equalization. In 1909 the board once more attempted to secure greater uniformity in the assessment of property. Upon investigation it found the assessments of several southern counties very much

[12] See page 286 of preceding chapter.

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too low. To secure a greater equality among the counties of the state, it raised the assessment of Fresno County 20 per cent; of Kern County 20 per cent; of Kings County 20 per cent; of Los Angeles County 40 per cent; of Monterey County 20 per cent; of Orange County 50 per cent; of Riverside County 40 per cent; of San Bernardino County 33⅓ per cent; of Santa Barbara County 25 per cent; of Tulare County 20 per cent; of Ventura County 100 per cent. The assessments of the central and northern counties were found to be more satisfactory; Alameda County was raised 10 per cent; the City and County of San Francisco 10 per cent; San Joaquin County 15 per cent; Santa Clara County 10 per cent; Santa Cruz County 15 per cent; Stanislaus County 25 per cent, and Yolo County 15 per cent. The amount added to the assessment roll because of these increases was $321,532,596.

e. The State Tax Rate

The legislature at its biennial session has fixed, until the changes adopted in 1910, the amount of money which had to be raised by means of the general property tax. The amounts levied *in toto,* and for each of the several funds from 1895 to 1910, are shown by the table on page 334.

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TABLE SHOWING THE TOTAL VALUATION OF PROPERTY, THE AMOUNT OF MONEY TO BE RAISED FOR STATE PURPOSES, THE STATE TAX RATE, THE AMOUNTS LEVIED FOR THE DIFFERENT FUNDS AND THE TAX RATE FOR EACH

				AMOUNTS LEVIED FOR THE DIFFERENT FUNDS								
Year	Total valuation of property*	Total amount of revenue to be raised	Total state tax rate	General amount	rate	School amount	rate	High School amount	rate	Interest & Sinking amount	rate	Rate for university fund
1895	$1,132,712,674	$7,250,000	.685	$4,918,106	.457	$2,195,459	.204	.....	.....	$141,435	.014	.01
1896	1,263,798,687	5,018,265	.429	2,681,371	.224	2,195,459	.183	.....	.....	141,435	.012	.01
1897	1,087,455,725	5,010,000	.51	2,553,602	.25	2,314,963	.226	.....	.....	141,435	.014	.02
1898	1,129,473,765	5,010,000	.488	2,553,602	.238	2,314,963	.216	.....	.....	141,435	.014	.02
1899	1,194,677,895	6,575,497	.601	4,000,722	.353	2,433,340	.215	.....	.....	141,435	.013	.02
1900	1,218,228,075	5,520,997	.498	2,946,222	.255	2,433,340	.210	.....	.....	141,435	.013	.02
1901	1,240,190,945	5,419,506	.482	2,750,000	.233	2,528,071	.215	.....	.....	141,435	.014	.02
1902	1,288,076,062	4,419,506	.382	1,750,000	.143	2,528,071	.207	.....	.....	141,435	.012	.02
1903	1,597,166,031	7,959,428	.561	5,200,000	.343	2,617,993	.173	.....	.015	141,435	.010	.02
1904	1,550,389,541	7,359,428	.535	4,600,000	.312	2,617,993	.178	.....	.015	141,435	.010	.02
1905	1,625,467,985	7,210,556	.490	4,000,000	.26	2,851,786	.185	217,335	.015	141,435	.010	.02
1906	1,595,897,411	6,890,556	.476	3,680,000	.243	2,851,786	.188	217,335	.015	141,435	.010	.02
1907	1,879,728,763	7,578,779	.445	4,030,000	.226	3,086,419	.173	320,925	.018	141,435	.008	.02
1908	1,991,554,603	7,188,779	.400	3,630,000	.192	3,086,419	.163	320,925	.017	141,435	.008	.02
1909	2,439,470,052	7,729,776	.364	4,025,000	.174	3,199,336	.138	364,005	.016	151,435	.006	.03
1910	2,373,809,470	7,279,776	.353	3,575,000	.159	3,199,336	.142	364,005	.016	151,435	.006	.03

* The valuation here given is the amount on which the State Board of Equalization based the state tax rate; the figures are taken from the reports of the State Board of Equalization.

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An interesting fact revealed by the table is the decrease in the tax levy from $7,250,000 in 1895, to $4,419,506 in 1902, and the sudden increase in 1903, to $7,959,428. After 1903, only once did the total levy drop below $7,000,000. The decrease just referred to was caused entirely by a decrease in the levy for the general fund. The levy for this purpose in 1895 amounted to $4,913,106; in 1901 to $2,750,000; in 1902 to $1,750,000. The reduction of $1,000,000 from 1901 to 1902 was made for political reasons, the politicians hoping that the balance on hand would be sufficient to meet the fiscal needs of the state. The scheme of the politicians proved disastrous. On July 31, 1903, the general fund was exhausted and it became necessary to transfer to it $921,000 from various special funds. On November 5, 1903, $447,000 more was transferred to the general fund to meet current expenditures. To provide for the deficit and the current expenses, the legislature in 1903 was obliged to raise the tax levy for the general fund to $5,200,000. Since 1903, the levy for this fund has decreased gradually, until in 1910 it amounted to $3,575,000. The levies for the school fund, as contrasted with those for the general fund, show a steady increase, from 1895 to 1910, of over one million dollars. While the appropriations for the school fund have increased from $2,195,459 in 1895 to $3,199,336 in 1910, the state tax rate for common-school purposes, because of the increase in the valuation of property, has decreased from 20.4 cents on the hundred dollars in 1895 to 14.2 cents in 1910.

In 1895 the total state rate of taxation was 68.5 cents on the hundred dollars; in 1910 it was 35.3 cents. In the former year there was levied a tax of 45.7 cents for the general fund, 20.4 cents for the school fund; 1.4 cents for interest and sinking fund, and 1.0 cents for the state university. In the latter year there was levied a tax of 15.9 cents for the general fund, 14.2 for the common-school fund, 1.6 cents for the high school fund, 0.6 cents for interest and sinking fund, and 3 cents for the university fund. Since the total appropriations for the two years mentioned are virtually the same, the decrease in the tax rate was made possible by the increase in the valuation of property, which in 1895 amounted to $1,132,712,674 and in 1910 to $

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373,809,470. An increase of $1,241,096,796 is thus shown in sixteen years. The effect which this increase in the assessment of property had on the tax rate is clearly shown by the tax rate for the interest and sinking fund. The appropriations for this fund have remained practically constant throughout the entire period, while the tax rate decreased from 1.4 cents to 0.6 cents in 1910.

f. The Duties of the County Auditor

We have not heretofore spoken of the duties of the county auditor in relation to state and county taxation. As might be expected, his work is primarily of a clerical nature. To him is delivered the assessment book after the county board of equalization has completed its work of equalization. On or before the second Monday in August the auditor must prepare from the assessment book, as corrected, a duplicate statement showing the number of acres of land, the value of real estate, the value of improvements, the value of personal property exclusive of money, the amount of money, the total value of all property, the total assessed value of mortgages and trust deeds, the value of mortgage and trust deeds held by state institutions, and the assessed value of all property sold to the state for delinquent taxes.[13] As soon as he has prepared these statements he must transmit one copy to the state controller and the other to the state board of equalization. Upon receiving notice from the state board of equalization, the county auditor must make the necessary changes in the assessment book. He must compute the amount of taxes due on the property, as assessed. On or before the second Monday in October he must deliver the corrected assessment book to the county tax collector with an affidavit attached, stating that he received the book from the clerk of the board of supervisors, that he corrected it so as to make it conform to the requirements of the state board of equalization, that he computed the taxes due, and added up the columns showing the acreage, the valuation and taxes. Upon delivering the assessment book to the tax collector, he must charge him with all taxes due, except those on

[13] The last two items have been required since the amendment of March 28, 1895, to section 3728. *Statutes and Amendments to the Codes*, 1895, p. 322.

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property assessed by the state board of equalization. A statement of the amount so charged must be transmitted to the state controller.

Another statement which the county auditor must prepare, in duplicate, is a report on the county finances. One copy is transmitted to the state controller, the other is filed with the county board of supervisors on or before their meeting on the third Monday in September. This report must show: the county indebtedness, both funded and floating, the rate of interest paid on such debt, the value of the county's property, the county rate of taxation, the assessed value, in detail, of all property, and any other information required by the controller, or the board of supervisors.[14]

g. Collection of Taxes

There are three different classes of officials charged with the collection of the general property tax. The state treasurer, by order of the controller, receives all the taxes paid on railroad property assessed by the state board of equalization. Enough has been said in the last chapter of the controller's duty relative to the collection of this tax. The county assessor must collect all taxes on personal property at the time of making the assessment, if the same are unsecured by real estate. In computing the amount of taxes due on this class of personal property, he is governed by the rates in force during the previous year.[15]

If, after the state and county tax rate for the year have been determined, it is discovered that the assessor has collected too much, the overcharge is refunded. If, on the other hand, not enough has been collected, the tax collector must collect the deficiency in the same manner as other taxes are collected. The assessor must settle with the auditor on the first Monday of each

[14] This section of the code (3737) was repealed by the amendment of March 28, 1895, and added by the amendment of April 1, 1897.

[15] On March 4, 1911, section 3823 of the political code was amended and the amount the assessor was to collect for state purposes, for the first year of the "Panama-Pacific International Exposition Tax," was fixed at six cents on the hundred dollars.

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month and pay all the taxes collected by him into the county treasury.[16]

All other taxes on property are collected by the county tax collector. In some counties the county treasurer acts in the capacity of tax collector.[17] After having received the assessment book from the county auditor, the tax collector must publish, within ten days after receiving the book, a notice specifying first that the first installment of taxes, that is, all the taxes on personal property, secured by real estate, and one-half of the taxes on real estate, is due and payable on the second Monday in October, and becomes delinquent at six P. M. on the last Monday in November. If the same is not paid before six P. M. on the last Monday in November, fifteen per cent is added to the tax and, if not paid before six P. M. on the last Monday in April, five per cent more must be added. Second, the notice must specify that the second installment of taxes is due and payable on the first Monday in January and will be deliquent at six P. M. on the last Monday in April. If not paid before that time five per cent must be added.

A person may pay both installments when making the first payment. Upon the payment of any tax, the tax collector must mark the date of payment in the assessment book opposite the assessment, and give the payee a receipt, showing the assessment of the property for which the tax has been paid, *in toto,* or in part, a description of the property, the amount of the tax paid, and the amount remaining unpaid. On the first Monday of each month the tax collector must settle with the county auditor and pay the money collected by him into the country treasury. The collection of delinquent taxes we shall consider under the topic of enforcement.

The amount of taxes charged by the state controller and the county auditors for state and county purposes is shown in the following table:

[16] Most of the county assessors are allowed six per cent of the taxes collected by them.

[17] In Placer County the assessor occupies also the office of tax collector. He holds two offices and gets two salaries.

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TABLE SHOWING TOTAL TAXES CHARGED BY COUNTY AUDITORS TO THE TAX COLLECTORS AND THE AMOUNT CHARGED UP TO THE CONTROLLER OF STATE, FOR STATE AND COUNTY PURPOSES, 1895-1910 INCLUSIVE

	Taxes on property other than that assessed by the State Board of Equalization			Taxes on railroad property, assessed by the State Board of Equalization			
Year	For state purposes	For county purposes	Total	For state purposes	For county purposes	Total	Grand total, state & county
1895	$7,462,653.03	$12,568,395.28	$20,031,048.31	$294,677.64	$490,708.58	$785,386.22	$20,816,434.53
1896	5,240,986.19	11,701,816.61	16,942,802.80	185,428.08	469,839.72	655,267.80	17,598,070.60
1897	5,333,950.82	11,745,313.37	17,079,264.19	221,807.92	539,429.20	761,237.12	17,840,501.31
1898	5,308,103.68	12,069,291.39	17,377,395.07	216,952.42	502,942.56	719,894.98	18,097,290.05
1899	6,896,578,24	12,121,270.47	19,017,848.71	278,828.56	568,951.16	847,779.72	19,865,628.43
1900	5,825,847.21	12,741,955.73	18,567,802.94	237,604.54	594,061.84*	831,666.38	19,399,469.32
1901	5,722,499.01	13,309,225.16	19,031,724.17	235,783.12	649,123.10	884,906.22	19,916,630.39
1902	4,681,038.10	14.505,086.17	19,186,124.27	247,584.10	860,408.26	1,107,992.36	20,294,116.63
1903	8,492,154.13	15,244,680.62	23,736,834.75	472,293.30	1,073,803.48	1,546,096.78	25,282,931.53
1904	7,912,833.25	16,453,351.21	24,366,184.46	372,732.18	930,484.20	1,303,216.38	25,669,400.84
1905	7,615,605.52	17,744,352.72	25,359,958.24	342.118.92	964,487.50	1,306,606.42	26,666,564.66
1906	7,202,968.67	17,042,706.39	24,245,675.06	385,611.52	1,081,985.98	1,467,597.50	25,713,272.56
1907	7,859,307.10	20,564,711.84	28,424,018.94	506,508.84	1,580,953.76	2,087,462.60	30,511,481.54
1908	7,494,143.22	22,566,407.27	30,060,550.49	466,792.62	1,635,397.94	2,102,190.56	32,162,741.05
1909	8,435,433.85	25,556,490.74	33,991,924.59	444,379.44	1,580,411.06	2,024,790.50	36,016,715.09
1910	7,918,274.15	26,082,906.76	34,001,180.91	458,023.54	1,705,202.06	2,163,225.60	36,164,406.51

* In his report for the 52nd and 53rd fiscal years (1900-1902), p. 118, the controller reports $593,937.38 as due from railroads for county purposes for the year 1900.

Figures from the Reports of the Controller of State.

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The figures show that the total amount of taxes charged by the controller and the county auditors against the county tax collectors increased from $20,816,434.53 in 1895 to $36,164,406.51 in 1910, or $15,347,971.98. The increase was caused almost entirely by the increase in taxation for county purposes. In 1895 the total taxes levied for state purposes amounted to $7,757,-330.67; in 1910 to $8,376,297.69; for these same years the amount levied for county purposes was $13,059,103.86 and $27,788,108.82 respectively. From 1895 to 1902 inclusive, the amount of taxes levied for state purposes decreased from $7,757,300.67 to $4,928,-622.20 or by $2,828,708.47, while the amount of taxes levied for county purposes increased from $13,059,103.86 in 1895 to $15,-365,494.43 in 1902, or an increase of $2,306,390.57. In drawing any comparison from these figures one must make allowance for the insufficient tax levy of 1902, of which we have previously spoken. In 1903, as stated above, there was a marked increase in the amount of taxes levied for state purposes, because of certain deficiencies during the preceding year, and because of increased appropriations to meet the ordinary state expenditures. For the year 1903, the total taxes charged for state purposes amounted to $8,964,447.43; the total taxes for county purposes amounted, in the same year, to $16,318,484.10, or nearly twice as much as for state purposes. In 1910 the total state tax amounted to $8,376,297.69; the county taxes to $27,788,108.82, or more than three times as much as for state purposes. To one who studies these figures it must become evident that the real burden of taxation, so far as the general property tax is concerned, is a matter of county rather than of state government. According to figures published by State Controller A. B. Nye, the increase in county taxes charged between 1890 and 1900 was 41 per cent; between 1900 and 1910, 118 per cent. These figures include the taxes of the City and County of San Francisco, a large part of which were for municipal purposes. If the City and County of San Francisco is excluded, the increases are 37 and 136 per cent respectively. The controller classified the principal expenditures of the county government for county and district purposes, for the fiscal year ending June 30, 1910, as follows:[18]

[18] *Biennial Report of the State Controller*, 1908–09, 1909–10, p. 51.

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For school purposes	$17,509,663.00
For roads and bridges	5,618,446.31
For indigents and orphans	2,336,506.92
For maintenance of courts	3,179,744.89
For maintenance of jails	608,470.72
For general administrative expenses	18,177,956.70
For bonds, interest and redemption	2,674,652.65

For the year the total expenditures of county governments for all purposes were $63,912,580.61. During the same year the total state expenditures, including transfers ($766,092.61), amounted to $19,519,812.92. The total state and county expenditures were $83,432,393.53.

h. Enforcement of Collection

Prior to 1895, it was difficult for the state to secure a valid title to property sold for delinquent taxes. The delinquent taxpayer was allowed one year to redeem his property. If he failed to do so it was sold at public auction. In case no bidder appeared, the state was entitled to a deed but only after having given notice to the person concerned. However the law, as interpreted by the supreme court, did not authorize the state or county officer to serve notice on the delinquent taxpayers, or apply for a deed on the part of the state. Moreover, the court said: "if the state has become the purchaser of land at a delinquent tax sale, the tax has been extinguished by the sale, and the state, instead of being a creditor of the taxpayer, or entitled to receive any money due to it for taxes, has acquired an interest in the land, which is to be divested only by some affirmative action on the part of the delinquent taxpayer."[19] This decision effected the withdrawal of the property from the tax roll and at the same time prevented the state from securing a title to the delinquent property. In 1895, radical changes were introduced which, with a few minor modifications, are in force at present. According to these, on or before the fifth day of June of each year, the tax collector must publish the delinquent list and give notice that, unless the taxes are paid, the real estate upon which they are due will be sold. If at the time of sale the taxes have not been

[19] *San Francisco and Fresno Land Company* v. *Banbury,* 106 Cal. 129, 133–134.

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paid, the property will be "sold to the state," by the operation of the law and the declaration of the tax collector.[20] The land "sold to the state" may be redeemed by the owner, or any party having an interest in the property, at any time within five years from the date of sale, or at any time thereafter before the state finally sells the land. But the property is reassessed every year and the person wishing to redeem such real estate "sold to the state" for taxes must pay to the county treasurer of the county in which the real estate is situated, the following sums:

First. The amount of the taxes, penalties and costs due at the time of the sale, with interest at seven per cent per annum on the aggregate amount of the taxes due.

Second. All taxes which were a lien on the real estate, at the time the taxes became delinquent.

Third. All unpaid taxes assessed each year on the land since the date of sale; if the property has not been assessed since the date of sale, then upon the value of the property as assessed in the year nearest the time of redemption; also interest at seven per cent on the taxes for each of the years from the first day of July of each year to the time of redemption.

Fourth. All costs and expenses of redemption.

Fifth. The following additional penalties:

Ten per cent if redeemed within six months from the date of sale; twenty per cent, if redeemed within one year from the date of sale; thirty per cent, if redeemed within two years therefrom; forty per cent, if redeemed within three years therefrom; forty-five per cent, if redeemed within four years therefrom; and fifty per cent, if redeemed within five or any greater number of years from the date of sale.[21]

The amendment of March 20, 1905, introduced the penalties as given above.

[20] When the property is "sold to the state" the tax collector must make out a certificate of delinquent tax sale, in which he must show the date of sale, the name of the property owner if known, a description of the property, the value of the property as assessed, and the date at which the state will be entitled to a deed.

If the original taxes due amount to $300 or more, the state may bring suit against the owner of the property for the collection of taxes, penalties and costs.

[21] The amendment of March 28, 1895, introduced the following penalties:

10 per cent if redeemed within six months from date of sale.
20 per cent if redeemed within one year from date of sale.
40 per cent if redeemed within two years from date of sale.
60 per cent if redeemed within three years from date of sale.
80 per cent if redeemed within four years from date of sale.
100 per cent if redeemed within five or more years from date of sale.

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If the property is not redeemed within the allotted time of five years, the tax collector, or his successor in office, must deliver to the state a deed conveying the property. After the state has obtained a deed the controller is authorized to direct the county tax collector to sell the land, at public auction, to the highest bidder, provided the price offered is sufficient to pay the delinquent taxes, penalties and costs.

Thus, by the changes introduced in 1895, the state could obtain a title to property and, having a title, could sell the property so that it would again appear upon the assessment roll. Unfortunately figures on tax sales to the state, or redemptions and sales by the state, do not appear in the reports of the state controller until 1906. In that year 20,963 sales were made to the state; in 1907, 22,980; in 1908, 21,401; in 1909, 22,497. During 1907, the state sold 663 tracts of land for $40,554.81; in 1908, 585 tracts for $56,963.79; in 1909, 1,056 tracts for $84,598.03; in 1910, 536 tracts for $37,254.03. During these years the number of redemptions and the amounts received were as follows:

TABLE SHOWING THE NUMBER OF CONTROLLER'S RECEIPTS ISSUED ON REDEMPTION AND AMOUNT RECEIVED

From May 1st to May 1st of each year	Receipts on redemptions	Amounts received				
		Property tax	Interest	Penalties on redemption	Total	Total state's portion
1906–07	13,662	$165,997.83	$31,294.55	$41,365.22	$238,657.60	$70,661.41
1907–08	17,764	177,412.92	29,963.81	44,124.09	251,500.82	75,328.57
1908–09	23,111	226,908.61	44,994.55	53,448.90	325,352.06	101,304.10
1909–10	23,124	266,129.48	48,081.43	69,464.44	383,675.35	109,027.89

3. The Poll Tax

No important changes were made in the poll-tax law during the period between 1895 and 1910. The policy of the state of allowing the assessors a commission on poll taxes, in order to secure a better enforcement of the law, has been abandoned to some degree. By amendments to the county government acts assessors of some counties have been deprived of the commission. The poll-tax receipts during the last fifteen years have increased about 100 per cent. In 1895, the receipts were $341,162.22; in 1910, $687,953.49. The receipts during the period 1895 to

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1910 appear in the following table. In his last two reports the state controller comments on the increase in the receipts from the poll tax, but also states "that there is a great difference between assessors in respect to the diligence with which they gather in the tax."[22] Suggestions and attempts to repeal the provisions of the constitution requiring the collection of a poll tax have been frequently made, but thus far have failed, largely because no other source of revenue has been found to serve as a satisfactory substitute. All of the poll tax receipts are paid into the state school fund. The repeal of the law would mean a withdrawal from that fund of about $700,000, an amount which, unless supplied from other sources, would interfere rather seriously with the state's educational policy.

We have so far discussed the general property tax collected by the county tax collector; we have referred to the tax levied on railroad property assessed by the state board of equalization, and have mentioned the poll tax. The state receipts from these sources from 1895 to 1910 were as follows:

Table Showing Receipts from General Property Tax (Exclusive of Railroad Taxes on Property Assessed by the State Board of Equalization), Taxes on such Railroad Property and from the Poll Tax

Year	General property tax	Railroads State & county	Railroads County	Railroads State	Poll tax
1895	$5,687,388.84	$1,282,325.99*	$812,437.89	$469,888.10	$341,116.22
1896	7,310,749.35	1,245,751.19*	779,742.80	466,008.39	362,794.12
1897	5,180,781.26	650,683.72	466,508.30	184,175.42	358,135.11
1898	5,292,604.06	758,394.14	537,329.42	221,064.72	364,291.62
1899	5,150,651.70	717,864.84	501,418.60	216,446.24	340,432.12
1900	6,797,033.73	846,082.20	566,126.27	279,955.93	404,574.74
1901	5,824,157.47	837,147.34	598,094.57	239,052.77	428,907.05
1902	5,686,435.22	884,062.42	648,519.30	235,543.12	430,186.17
1903	4,697,859.80	1,115,917.68	865,318.96	250,598.72	447,251.81
1904	8,219,911.51	1,350,963.00	879,662.04	471,300.96	481,417.98
1905	7,879,330.04	1,303,208.02	930,475.84	372,732.18	528,914.35
1906	7,590,387.67	1,306,606.42	964,487.50	342,118.92	604,677.50
1907	7,139,022.90	1,468,340.94	1,082,729.42	385,611.52	502,694.23
1908	7,761,821.99	2,057,057.96†	1,557,782.72	499,275.24	607,973.94
1909	7,530,155.94	2 071,303.04	1,611,238.88	460,064.16	670,696.01
1910	8,436,047.91	1,994,459.30	1,556,715.26	437,744.04	687,953.49

* Includes back taxes.

† Does not include $105.36 paid into the Railway Tax Contingent Fund.

[22] *Biennial Report of the State Controller*, 1908–09, 1909–10, p. 25.

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4. Miscellaneous Receipts

We shall now turn our attention to the miscellaneous sources from which the state derives considerable revenue. Particular attention will be given to the revenue collected by the secretary of state, the receipts from the inheritance tax, the fees and taxes collected by the insurance commissioner, the revenue collected by the state board of harbor commissioners, the receipts from the sale of public lands and the interest on public deposits.

a. Revenues Collected by the Secretary of State

In 1881, the total amount of money paid into the state treasury by the secretary of state was $4,466; in 1911 it was $1,048,-335.43. In the former year the receipts were obtained from various fees; in the latter, from fees, from the sale of automobile licenses, and from the corporation license tax. The fees collected and paid into the state treasury by the secretary of state in 1895 amounted to $18,698.35; in 1900, to $34,403.55; in 1905, to $159,336.90, and in 1910, to $272,234.93.[23] The large receipts in 1905 as compared with those of 1900 were caused, for the most part, by the amendment of February 28, 1901, which introduced a graduated fee for filing articles of incorporation. Before this date, the secretary of state had to charge five dollars for filing such articles. The amendment required him to collect the following sums:

If the capital stock amounted to $25,000 or less		$15.00
If the capital stock amounted to 25,000 and less than	$75,000	25.00
If the capital stock amounted to 75,000 and less than	200,000	50.00
If the capital stock amounted to 200,000 and less than	500,000	75.00
If the capital stock amounted to 500,000 and less than	1,000,000	100.00

and $50.00 additional for every $500,000 above $1,000,000.

Though the section of the code fixing the fees[24] to be charged by the secretary of state has been amended on March 27, 1905,

[23] These figures are taken from the reports of the controller of the state and represent the net receipts.

[24] An amendment in 1895 required that the fees collected by the secretary of state should be paid into the state treasury for the benefit of the state library fund. An amendment of February 28, 1901, limited the amount to be paid into the state library fund to $2,500; An amendment of March 18, 1907, increased it to $3,000; an amendment of February 20, 1909, to $5,000; an amendment of April 1, 1911, reduced it to $3,500; the balance of the money collected is paid into the state treasury for the benefit of the general fund.

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March 18, 1907, February 20, 1909, and again on April 1, 1911,[25] the fees charged for filing articles of incorporation were not changed by these amendments.

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[25] Under the act of April 1, 1911, the secretary of state must collect the following fees:

1. For a copy of any law, resolution, record, or other document on file in his office, 20 cents per folio.
2. For comparing a copy of any law, resolution, record, or other document or paper with the original, or the certified copy of the original, on file in his office, 5 cents per folio.
3. For affixing certificate and seal of state, unless otherwise provided for, $2.00.
4. For filing articles of incorporation:

if capital stock amounts to $25,000 or less	$15.00
if capital stock amounts to more than $25,000 and not more than $75,000	25.00
if capital stock amounts to more than $75,000 and not more than 200,000	50.00
if capital stock amounts to more than 200,000 and not more than 500,000	75.00
if capital stock amounts to more than 500,00 and not more than 1,000,000	100.00

If the capital stock amounts to more than $1,000,000, $50.00 for every additional $500,000 above $1,000,000. For filing the articles of incorporation of a coöperative society, $15.00. For filing articles of incorporation of a corporation without capital stock, other than coöperative societies, $5.00.

5. For recording articles of incorporation, 20 cents per folio.
6. For issuing a certificate of incorporation, $3.00.
7. For filing a certificate of increase of capital stock, $5.00 for every $50,000 increase or fraction thereof.
8. For filing a certificate ot decrease of capital stock, $5.00.
9. For filing notice of removal of place of business, $5.00.
10. For filing amended articles of incorporation unless otherwise provided for, $5.00.
11. For filing of certificate of creation of bonded indebtedness or increase or decrease thereof, $5.00;
12. For issuing a certificate of increase or decrease of capital stock, $3.00.
13. For filing a certificate of continuance of existence, $5.00.
14. For issuing a certificate of continuance of existence, $3.00
15. For filing claim to trade mark and issuing certificate of filing, $5.00.
16. For issuing a certificate of filing of any document not otherwise provided for, $3.00.
17. For filing a certificate of increase or decrease of number of directors, $5.00.
18. For issuing a certificate of increase or decrease of directors, $3.00.
19. For receiving or recording each official bond, $5.00.
20. For filing of notice of appointment of agent, $5.00.
21. For each commission, passport, or other document signed by the governor, and attested by the secretary of state, excepting pardons, military commissions, commissions issued to non-salaried officers and extradition papers, $5.00.
22. For each patent of land issued by the governor, $1.00 if the same is for 160 acres or less; and $1.00 for each additional 160 acres or fraction thereof.
23. For issuing certificate of official character, $2.00.

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An act of March 22, 1905, requires the owner of every motor vehicle to register it with the secretary of state. The fees which the secretary must collect are:

For registration of and issuing owner's badge	$2.00
For registration of and issuing chauffeur's badge	2.00
For registration of and issuing transfer of ownership	1.00
For registration of and issuing dealer's badge	50

On June 30, 1910, there were 36,146 registered motor vehicles in the state, and 13,942 registered chauffeurs.[26] The state receipts from the automobile license fees were, in 1905, $7,857; in 1906, $11,240; in 1907, $15,830; in 1908, $16,970; in 1909, $19,048, and in 1910, $30,495.50.

The Corporation License Tax[27]

A tax levied upon a corporation may be a tax upon a privilege, or it may be regarded a tax upon property, depending upon the nature of the franchise which is subject to taxation. Under the statutes of California, as interpreted by the supreme court, a corporation may possess three different kinds of franchises, each in turn subject to a fee or tax. Thus there is (1) the franchise "to be," that is, the grant of corporate life from the state; (2) the franchise "to do," or the grant of corporate power from the state to carry on some business; (3) the franchise "to do" which carries with it a gift or grant, such as using the street of a city for street-railway purposes, etc. The third class is sometimes separated into special and general, but the courts of this state have not drawn a clear distinction between them. An illustration showing the three franchises in one group is that of an electric-power company, organized in one state, doing business in another and distributing its power in a city of the latter state by municipal permission. In this instance the franchise "to be" was derived from the state where the corporation was organized; the right "to do" business from the foreign state, and the permit to distribute its power from the municipality. Of

24. For recording miscellaneous papers or documents, 20 cents per folio. folio.

25. For filing a certified copy of an order or decree of a court, changing the name or dissolving a corporation, $5.00.

[26] *Report of Secretary of State*, 1908–1910, p. 8.

[27] *Report of the Commission on Revenue and Taxation*, 1906, pp. 262–271.

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course, these three franchises may just as well belong to a domestic as to a foreign corporation.

The constitution of 1879 explicitly states that "franchises" are property and as such must be taxed in proportion to their value. It the case of *The Spring Valley Water Company* v. *Schottler*, 62 Cal. 69, the court defined franchises as "special privileges conferred by government on individuals and which do not belong to the citizens of the country generally by common right." This view of the court has not been overruled. Viewed as special gifts or grants, franchises have been considered as property, the value of which is obtained by deducting the value of all tangible property from the total market value of the shares of capital stock and outstanding bonds of the corporation owning such a franchise. Until the recent changes in the revenue laws of California, the county assessor had to ascertain the value of franchises.

On a preceding page we have given the fees imposed on three or more persons associated, according to law, to form a private corporation. The privileges for which the fee is paid are: the right to use the corporate name, to have a corporate seal, to sue and be sued, and such other privileges ordinarily permitted to corporations. Until 1905 California levied no license tax on the second class of franchises, a franchise "to do." An act of March 20, 1905,[28] imposed an annual license tax of ten dollars on every corporation doing business in the state. The annual charge had to be collected by the secretary of state, between the first Monday in July and the first Monday in August. If a corporation failed to pay the tax, it forfeited its charter, or, in the case of a foreign corporation, its right to do business in the state. As originally conceived this fee was for the special service of keeping a continuous record of existing corporations and of wiping off the records of the state all corporations which were not continuing in business. This purpose has been lost sight of and the license tax has been charged primarily for revenue purposes. By an amendment of June 13, 1906,[29] the license charged was raised to twenty dollars, and the time of payment extended to the first day of

[28] *Statutes and Amendments to the Codes*, 1905, p. 493.
[29] *Statutes and Amendments to the Codes*, 1906, p. 22.

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September. Upon the payment of a penalty of ten dollars, payment might be deferred until the first day of December without forfeiting the charter or the right to do business. The amendment of March 19, 1907,[30] introduced a graduated corporation-license tax. Under this act,[31] corporations must pay the following annual license taxes:

When the authorized capital stock does not exceed	$10,000	$10.00
When it exceeds $10,000 but not	$20,000	15.00
When it exceeds 20,000 but not	50,000	20.00
When it exceeds 50,000 but not	100,000	25.00
When it exceeds 100,000 but not	250,000	50.00
When it exceeds 250,000 but not	500,000	75.00
When it exceeds 500,000 but not	2,000,000	100.00
When it exceeds 2,000,000 but not	5,000,000	200.00
When it exceeds 5,000,000		250.00

The time of payment and the penalty were not changed by the amendment. According to an amendment of March 19, 1909, the secretary of state must collect the full rates if the articles of incorporation are filed at any time between July 1 and September 30; three-fourths of the regular rate if between October 1 and December 1, one-half the regular rate if between January 1 and March 1, and one-fourth the regular rate if between April 1 and June 30. According to the decision of the supreme court, *Kaiser Land and Fruit Co.* v. *Curry*, 155 Cal. 638, corporations must pay the annual license tax whether or not they are actually engaged in business.

The state receipts from the corporation license tax[32] were, in 1906, $138,915.00; in 1907, $303,545.00; in 1908, $663,190.00; in 1909, $664,060.00, and in 1910, $745,605.00.

b. The Inheritance Tax

Inheritance taxation in California has not yet entirely emerged from the experimental stage. An act of March 23, 1893, introduced a collateral inheritance tax. This act levied a tax of five per cent on all property passing to any person other than father, mother, husband, wife, lawful issue, brother, sister, the

[30] *Statutes and Amendments to the Codes*, 1907, p. 664.

[31] The Supreme Court in the case of *Mulford* v. *Curry*, 163 Cal. 276, has held that the state could only tax that portion of the capital stock of interstate corporations which is devoted to California business.

[32] These figures are the amounts paid into the state treasury.

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wife or widow of a son, or the husband of a daughter, or any child or children adopted in conformity with the laws of the State of California, or any descendent of such decedent born in lawful wedlock, or to any corporation or institution exempt from taxation. Estates valued at five hundred dollars or less were exempt. The tax was collected by the county treasurers, who were allowed to retain five per cent of the first fifty thousand dollars collected, three per cent of the second fifty thousand dollars collected, and one per cent of all additional sums. The remainder had to be paid into the state treasury for the benefit of the state school fund.

The constitutionality of the act of 1893 was soon called into question but the supreme court in deciding various cases, has held that the right of inheritance was statutory and within the control of the legislature, which in its discretion might determine the conditions under which property might be inherited; that the tax was not a property tax but an excise tax and therefore the constitutional provision that all property shall be taxed according to its value did not apply and that the legislature might classify and exempt estates.[33]

An amendment of March 9, 1890, made no change in the rate, exemptions, penalties or commissions. It referred to the valuations of life estates. The amendment of 1899 subjected to taxation the bequests to brothers or sisters and made minor changes in the administration of the law. An act of March 20, 1905, levied a direct as well as a collateral inheritance tax. The exemptions and rates of taxation were graduated, as shown by table on the following page.

The law of 1905, as did the previous acts, required the county treasurers to collect the inheritance tax. For their services they were allowed 3 per cent on the first $50,000 collected, 1½ per cent on the second $50,000, and ½ of 1 per cent on all sums above $100,000 collected by them. The tax was due and payable at the time of the death of the decedent. If paid within six months after his or her death, a discount of five per cent was allowed. If not paid within eighteen months, the county treasurer is re-

[33] Estate of Wilmerding, 117 Cal. 281; Estate of Stanford, 126 Cal. 112; Estate of Mahoney, 133 Cal. 180.

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TABLE OF RATES AND EXEMPTIONS UNDER LAW OF 1905

Classification or Indication of Relationship	Property exemption	Application of Rates to Value of Inheritance or Bequests: On excess after deduction of exemption from $25,000	$25,000 to $50,000	$50,000 to $100,000	$100,000 to $500,000	In excess to $500,000
Husband, wife, lineal issue, lineal ancestor, adopted or mutually acknowledged child.	Widow or minor child, $10,000. Other, $4,000.	1½%	1¼%	3%	3¾%	4½%
Brother, sister, or descendant of either, wife or widow of a son, husband of a daughter	$2,000	1½%	2¼%	3%	3¾%	4½%
Uncle, aunt, or descendant of either	$1,500	3%	4½%	6%	7½%	9%
Grand uncle, grand aunt, or descendant of either	$1,000	4%	6%	8%	10%	12%
Other degree of collateral consanguinity, stranger in blood, body politic or corporate	$500	5%	7½%	10%	12½%	15%

Interest, penalties, and rebates same as present law.
Treasurer's commissions 3 per cent on first $50,000 of collections.
Treasurer's commissions 1½ per cent on second $50,000 of collections.
Treasurer's commissions ½ per cent on excess over $100,000 of collections.
For further details see Statutes of California, 1905, p. 341.

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quired to collect interest at the rate of 10 per cent per annum on the amount due the state. The amount of the tax due the state is governed by the exemptions, rates, and interest in force at the time of the death of the decedent. The supreme court has held repeatedly that the tax vests at the death of the decedent and that the right of the state cannot be divested by subsequent legislation.[34] Two hundred and fifty thousand dollars of the receipts from the inheritance tax are paid into the state school fund, the remainder into the general fund.

The inheritance tax act of April 7, 1911, introduced a number of changes, but the commissions allowed the county treasurers, the interest, penalties, rebates, and the disposal of the proceeds from the tax were not changed. The present law grants more liberal exemptions than did the law of 1905 to heirs in direct line and levies a heavier tax on large estates, especially those going to remote heirs and strangers in blood. The exemptions and rates under the act of 1911 are given on page 353.

A very important change was introduced in the appraisement of estates, to fix the inheritance tax. By this act the state controller is authorized to appoint, and at his pleasure remove, one or more persons in each county of the state to act as inheritance-tax appraisers. The code of civil procedure has been amended so that there will be an inheritance-tax appraisement of every estate. One of the three appraisers in every probate appraisement must be an inheritance-tax appraiser. It is his duty to determine whether the estate is subject to an inheritance tax. This provision of the law, together with an act of 1909, creating the office of deputy inheritance-tax collector whose duty it is to aid in the enforcement of the law and in the detection and prevention of fraud and evasion, will no doubt remedy many of the difficulties heretofore encountered.

The state receipts from the inheritance tax, since its introduction have been:

1894	$1,365.26	1899	157,734.54
1895	32,787.70	1900	385,362.07
1896	102,670.95	1901	243,586.44
1897	60,667.13	1902	$287,053.40
1898	83,550.21	1903	290,447.44

[34] *Estate of Woodard*, 153 Cal. 39; *Estate of Stanford*, 126 Cal. 112; *Estate of Moffitt*, 153 Cal. 359.

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TABLE OF RATES AND EXEMPTIONS UNDER LAW OF 1911

Classification or Indication of Relationship	Property exemption	Application of Rates to Value of Inheritance or Bequests: On excess after deduction of exemption from $25,000	$25,000 to $50,000	$50,000 to $100,000	$100,000 to $500,000	In excess to $500,000
Husband, wife, lineal issue, lineal ancestor, adopted or mutually acknowledged child.	Widow or minor child, $24,000 Others, $10,000	1%	2%	3%	4%	5%
Brother, sister, or descendant of either, wife or widow of a son, husband of a daughter	$2,000	2%	4%	6%	8%	10%
Uncle, aunt, or descendant of either	$1,500	3%	6%	9%	12%	15%
Grand uncle, grand aunt, or descendant of either	$1,000	4%	8%	12%	16%	20%
Other degree of collateral consanguinity, stranger in blood, body politic or corporate	$500	5%	10%	15%	20%	25%

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1904	286,735.72	1907	740,940.81
1905	532,760.16	1908	608,943.19
1906	292,750.01	1909	937,073.17
1910	883,639.74		

c. Fees and Taxes Collected by the Insurance Commissioner

Under an act of March 7, 1907, the insurance commissioner must collect the following fees:

1. $30.00 for filing the articles of incorporation, or certified copy of articles, or other certificates required to be filed in his office.
2. $20.00 for filing the required annual statement of insurance companies.
3. $5.00 for filing any other papers required to be filed by this act.
4. 20 cents per folio for furnishing copies of papers filed in his office.
5. $1.00 for certifying each copy furnished.
6. $5.00 for issuing each certificate, certifying that the company has made the necessary deposit.
7. $10.00 for filing any copy of any paper mentioned in this act or any amendment thereof.
8. $1.00 for registering each policy.
9. $10.00 annually, for issuing the anual certificate authorizing the company to do business.
10. $1.00 for issuing an annual license to agents.
11. $1.00 for attaching his seal to any paper or document.
12. $2.00 for issuing any certificate not mentioned above.

Prior to the act of March 21, 1903, the only tax, excepting certain fees, levied on insurance companies by the state was of a retaliatory nature. The act of 1903 levied an anual tax of two per cent on the gross premiums, less returned premiums, reinsurance and losses actually paid, received by all insurance companies, other than life, which were not organized or incorporated under the laws of California, but were doing business in this state. In 1905 the law was amended, and an annual tax of one per cent levied on the gross premiums of life-insurance companies not organized or incorporated under the laws of Cali-

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fornia. The insurance act of 1907 did not change the tax levied by the previous acts. The constitutional amendment adopted November 8, 1910, requires every insurance company or association doing business in this state to pay annually to the state a tax of one and one-half per cent upon the amount of gross premiums received upon its business done in the state, less return premiums and reinsurance in companies or associations authorized to do business in this state. From this tax of one and one-half per cent on the gross premiums, insurance companies are allowed to deduct the tax paid on real estate owned by them in the state. The tax paid in accordance with this amendment is in lieu of all other taxes and licenses, state, county, and municipal, upon property of such companies except county and municipal taxes on real estate, and taxes levied to meet a deficit in the state treasury. The amendment further provides:

> That when by the laws of any other state or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this state, doing business in such other state or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, imposed upon insurance companies of such other state or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the legislature upon insurance companies of such other state or country doing business in this state.

The revenue collected by the insurance commissioner during the last ten years have increased more than 833 per cent, as shown by the following table:

1901	$46,664.13	1906	$264,593.52
1902	51,000.26	1907	278,184.49
1903	65,101.03	1908	284,496.10
1904	71,260.98	1909	619,267.15
1905	165,243.45	1910	435,364.70

d. Fees Collected by the Board of State Harbor Commissioners

The board of state harbor commissioners took charge of the harbor of San Francisco in 1863. Since then, up to June 30, 1910, the total receipts, exclusive of the proceeds from the sale of seawall bonds and the special appropriation advertising the

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sale of such bonds, has been $28,525,383.27.[35] If the excluded items are included, the total receipts have been $30,466,254.06. During the same time the total expenditures, including the amount paid into the interest and sinking fund, have been $30,236,070.26, leaving a balance of $230,183.80 in the San Francisco harbor improvement fund. For the fiscal year of 1864 the total receipts amounted to $117,848.28, for 1870, to $252,649.56 for 1880, to $427,687.56 for 1890, to $599,105.58 for 1900, to $731,068.71 and for 1910 to $1,637,949.19.

The ordinary revenue of the board of state harbor commissioners is derived from dockage charges, that is, "the charge made for vessels occupying berths at the wharves, or moored in any slip or channel"; from tolls, that is, "the charge made for merchandise passing over state premises"; from wharfage, that is, "the charge made for leaving merchandise on state premises longer than the time specified"[36] in the rules and regulations of the harbor board; from rental of seawall lots, wharves and privileges in the ferry building; from the switching charges of the belt railroad and from the sale of old material. The rates of dockage, tolls, wharfage,[37] etc., are fixed from time to time by the board of harbor commissioners, but are not to exceed the cost of current expenses and improvements. All moneys collected by the board must be paid into the state treasury and credited to the San Francisco harbor improvement fund.

e. Receipts from Land Sales

A complete discussion of this subject would require a close examination of the disposal of the water lots in San Francisco; the state school lands; the swamp and overflow lands; the seminary lands; the payment into the state treasury by the federal

[35] This includes an appropriation of $100,000 to repair damages caused by the earthquake in April, 1906. Excepting this appropriation, the state legislature has never appropriated any money to improve the harbor of San Francisco. All the improvements have been paid out of the current receipts, or the proceeds from the sale of bonds, which were redeemed or are being redeemed with revenue obtained from dockage charges, tolls, wharfage, rent, etc.

[36] The definitions here quoted are taken from page 11 of the *Harbor Rules, Regulations and Rates* for 1909.

[37] The actual rates charged are published in the *Harbor Rules, Regulations and Rates,* which may be obtained from the board of state harbor commissioners.

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government of five per cent of the proceeds derived from the sale of public lands in California; the forest revenue problems; the fees collected by the surveyor-general and registrar of the land office. Space does not permit us to make an exhaustive study of the questions here involved. In passing, we can notice only the total state receipts from these various sources. These were up to June 30, 1910, as follows:

From sale of water lots in San Francisco		$30,405.45
From sale of school lands:		
Principal	$5,657,056.05	
Interest	2,476,402.28	
		8,133,458.33
From sale of swamp and overflow lands		792,434.43
From sale of tide lands, principal and interest		1,446,693.19
From sale of seminary lands:		
Principal	45,185.84	
Interest	22,713.98	
		67,899.82
From U. S. Government, 5 per cent of proceeds of sale of government lands		1,104,535.30
From U. S. Government on account of forest reserve		124,076.58
From fees and sale of scrip, collected by surveyor-general		594,477.24
From fees, collected by registrar of land office		62,745.78
From miscellaneous sources		337,039.96
Total		$12,693,766.08

In a previous chapter we have spoken of the five per cent claim. Under a federal statute the United States pays into the state treasury 25 per cent of the receipts of the forest reserves, which now includes about 28,000,000 acres in California. During the last two years these payments amounted to $99,840.73, or less than one-fifth of a cent per acre.

The fees which have to be collected by the surveyor-general and the registrar of the land office are:

$3.00 for each certificate of purchase or duplicate;
$5.00 for each patent or certified copy of record thereof;
$10.00 for certifying a contested case to the supreme court;
20 cents per folio for copies of official paper in his office;
$1.00 for a certificate with the seal attached.

And such other fees as may be allowed by law. All of these fees must be paid into the state treasury on the first Monday of each month and placed to the credit of the general fund.

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f. Interest on Deposits

In 1892, State Treasurer J. R. McDonald recommended the enactment of a law which would permit him to deposit public money with approved banks. In 1898, State Treasurer W. S. Green repeated this recommendation and outlined a plan for state and county depositories which would ultimately do away with the office of the county treasurer. His ideas were too advanced to meet the approval of the legislature. Fortunately as time went on, other state officials took up the matter. In 1905 Controller of State E. P. Colgan said in his biennial report: "California is one of the very few states that still clings to the antiquated and practically obsolete custom of retaining all of its public moneys in the vaults of its state, county and municipal treasuries." Governor Pardee, in his regular biennial message to the legislature, strongly urged the enactment of a law allowing the state treasurer to deposit a part of the available cash with the banks offering satisfactory security. During the last five years, he said, the average monthly balance in the state treasury had been $4,000,000, the larger part of which might have been kept in circulation to good advantage, and at the same time would have yielded the state from two to two and one-half per cent interest. The recommendations of Governor Pardee and Controller Colgan were incorporated in the law of March 20, 1905. During the same session, the legislature proposed an amendment to the constitution, permitting the deposit of state, county, and municipal funds. Under a previous decision of the supreme court of California, the legislature had no authority to pass a law permitting the deposit of county and municipal moneys. While the amendment was before the people, the constitutionality of the state law was called into question. No case came before the courts, but the state treasurer hesitated to deposit any money under the act. After the ratification of the amendment, new laws regulating not only state but also county and municipal deposits were enacted. An act of February 28, 1907, allows the deposits of state funds with state and national banks under the following conditions:

1. Money is to be deposited with the banks agreeing to pay the highest rate of interest.

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2. Banks must pay at least two per cent interest per annum.
3. Not more than ten per cent of the available money shall be deposited in any one bank.
4. The deposits must not exceed twenty-five per cent of the paid-up capital of the bank, exclusive of reserve and surplus.
5. The banks accepting deposits must give as securities, United States, state, county, city, or school district bonds, which must be approved by the governor, state controller, and state treasurer. These officials have the authority to demand an indemnity bond.
6. The deposits are payable on demand. The interest must be paid monthly on the average daily balance kept in the banks.

An act of March 23, 1907, defines the conditions under which county and municipal funds may be deposited. These are virtually the same as those just mentioned. Though clear and specific as these are, a recent investigation conducted by Superintendent of Banks W. R. Williams, seems to indicate that certain county and city treasurers have violated the law. According to his report they have deposited public money with banks without demanding property securities and without interest.[38]

That the state and counties are taking advantage of the laws permitting the deposit of public funds, is shown by this table:

	Money deposited			Available cash		
Date	State	County	Total	State	County	Total
June 30, '07	.....	$4,461,687.05	$4,461,687.05	$7,149,904.24	$16,269,237.03	$23,419,141.27
Dec. 31, '07	$2,817,250	4,365,341.23	7,182,591.23	6,541,324.68	9,539,059.21	16,080,383.84
June 30, '08	3,668,150	5,148,163.16	8,816,313.16	7,305,045.96	15,523,119.27	22,828,165.23
Dec. 31, '09	4,855,800	12,377,570.42	17,233,370.42	10,712,736.39	32,428,502.70	43,141,239.09
June 30, '10	5,636,000	14,563,676.51	20,199,676.51	7,201,219.82	27,761,739.50	34,962,959.32

From 1908 to 1910 the state deposits have increased over 50 per cent, the county deposits over 180 per cent. On its deposits the state during 1908 received as interest, $48,173.89; during 1909, $87,733.37 and during 1910, $101,915.99. Figures showing the interest receipts of counties are not available, but the controller estimated that they received about $225,000 during 1910.[39]

[38] *San Francisco Call,* February 3 and 4, 1912.

[39] According to a statement of State Treasurer E. R. Roberts, published in the *San Francisco Call,* January 3, 1912, there was deposited during the year of 1911, $8,000,000 of the state's money with 185 different banks.

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g. Receipts of State Institutions

State Controller E. P. Colgan, in his report dated December 15, 1892, recommended that the directors of state institutions, in receipt of money from pay patients, sale of products, donations or other sources, be required to render a monthly report to the controller of state and pay the receipts into the state treasury. Heretofore the money collected by the various state institutions, except the state prisons and the home for the adult blind, was under the exclusive control of the board of directors. The controller repeated his recommendation in 1898, prepared a bill and had it introduced in the legislature. The bill passed the legislature and was approved March 17, 1899. This law required that all money belonging to the state and received from any source whatsoever by a commissioner, or commission, by a board of trustees, board of managers, board of directors, or executive officer of any state hospital, asylum, prison, school, or harbor, supported by or under the control of the state, shall be accounted for at the close of each month to the state controller on such forms as the controller shall prescribe, and be paid into the state treasury. Money so paid into the state treasury is credited to the contingent fund of the particular institution from which the money is received, except that the receipts from the board of state harbor commissioners are credited to the San Francisco harbor improvement fund. Since the enactment of this law the state receipts from various institutions have been:

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TABLE SHOWING STATE RECEIPTS FROM VARIOUS STATE INSTITUTIONS 1899–1910

Year	Prisons*	Insane asylums	Home for adult blind	Home for feeble-minded children collections	Home for feeble-minded children county†	Deaf dumb & blind asylum	Normal schools	California polytechnic school	Veterans' home	Reform schools collections	Reform schools county‡	Totals
1899	$182,563.18	$45,811.94	$2,186.48	$1,383.97	$34,852.50	$2,896.19	.....	.....	.....	$1,922.74	$53,038.53	$324.655.53
1900	334,723.70	73,253.78	630.17	7,996.63	53,912.50	4,534.16	.....	.....	$54,561.57	1,563.02	58,803.18	589,978.71
1901	245,483.46	68,493.37	3,978.13	9,978.80	44,297.50	4,754.19	$1,550.88	.....	47,618.76	1,182.72	55,897.05	483,234.86
1902	310,730.94	72,221.87	12,444.75	6,234.61	49,452.50	5,610.41	2,363.14	.....	92,317.20	2,231.07	54,948.02	608,554.51
1903	260,460.03	71,972.23	15,974.06	4,604.66	48,340.00	5,346.62	2,210.86	.....	71,172.94	3,213.09	52,743.68	536.038.17
1904	310,730.72	81,650.13	19,489.82	5,586.96	48,680.00	6,556.56	3,080.61	$3,432.12	54,096.90	2,560.24	52,320.12	588,184.18
1905	355,082.09	109,751.44	21,099.10	5,510.77	58,980.00	6,364.47	2,443.27	4,513.26	94,533.08	3,472.48	63,577.35	725,327.31
1906	245,708.52	104,495.39	21,118.05	6,466.68	62,077.50	7,283.81	3,101.22	5,879.89	81,637.97	3,666.74	67,150.32	608,586.09
1907	347,451.06	114,814.37	27,577.42	10,967.42	55,897.50	6,923.69	4,610.77	6,744.74	77,303.85	9,370.95	62,876.47	724,538.24
1908	320,043.38	139,184.96	22,990.42	9,450.44	65,026.00	5,814.04	4,880.57	7,705.59	79,027.00	8,002.68	69,043.38	731,168.46
1909	184,467.50	131,516.89	21,350.69	9,794.23	73,944.00	6.690.66	7,367.81	9,107.02	86,630.60	6,103.47	92,070.81	629,043.68
1910	251,369.66	154,171.42	26,378.95	11,674.47	79,019.00	5,806.08	8,934.32	34,398.01	91,203.12	12,183.11	100,902.46	776,040.60

* Includes receipts from the sale of jute products and granite.

† County from which the person is committed must pay $10 per month during the time the inmate remains at the institution.

‡ County from which a person is committed to either of the reform schools must pay $132 per annum, or a proportional rate for a fraction of a year.

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5. State Receipts and Expenditures

The total state receipts and expenditures, excluding transfers, from 1895 to 1910, were:

Table Showing Total Receipts and Expenditures 1895–1910, Exclusive of Transfers

Year	Receipts	Expenditures	Deficit	Surplus
1894–95	$9,017,999.71	$9,087,673.68	$69,673.97	.....
1895–96	10,349,866.64	8,062,836.94	.....	2,287,029.70
1896–97	7,592,453.23	8,032,885.84	440,432.61	.....
1897–98	7,736,880.57	8,123,503.75	386,623.18	.....
1898–99	7,706,330.74	8,410,882.61	704,551.87	.....
1899–00	10,858,917.26	9,229,321.55	.....	1,629,595.71
1900–01	9,541,359.88	9,487,378.47	.....	53,981.41
1901–02	9,772,686.76	9,643,013.07	.....	129,673.69
1902–03	8,960,358.26	10,446,773.36	1,486,415.10	.....
1903–04	13,105,599.43	11,993,171.78	.....	1,112,427.65
1904–05	13,598,510.98	13,144,487.46	.....	454,023.52
1905–06	13,235,236.62	11,945,862.73	.....	1,289,373.89
1906–07	14,638,940.41	14,154,987.78	.....	483,952.63
1907–08	15,517,625.12	15,489,780.28	.....	27,844.84
1908–09	17,099,442.92	16,841,666.11	.....	257,781.81
1909–10	18,487,881.72	18,753,720.31	265,838.59	.....

The table shows that from 1895 to 1910 the state receipts increased over 100 per cent. This large increase in the receipts was distributed among the various sources of revenue as follows:

Receipts from	1895	1910
General property tax	$5,687,388.84	$8,436,047.91
Tax from railroads	469,888.10	437,744.04
Poll tax	341,116.22	687,953.49
Fees collected by secretary of state	18,698.35	272,234.93
Automobile licenses	.....	30,495.50
Corporation license tax	.....	745,605.00
Inheritance tax	32,787.70	883,639.74
Insurance commission collections	30,579.35	435,364.70
State board of harbor commissioners	518,618.61	1,637,949.19
Institutions	235,593.96	776,040.60
Interest on deposits	.....	101,915.99
Miscellaneous	1,683,328.58	4,042,890.63
Total	$9,017,999.71	$18,487,881.72

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6. The State Debt

The funded debt of the State of California on June 30, 1896, was:

Outstanding 7 per cent civil bonds of 1857	$4,500[40]
Outstanding 7 per cent civil bonds of 1860	500
Outstanding 6 per cent funded debt bonds of 1873	2,277,500
Outstanding 4 per cent San Francisco depot bonds of 1893	600,000
Total	$2,882.500

The state treasurer, in his report, did not include the San Francisco depot bonds[41] because he considered this bond issue as a loan to the board of state harbor commissioners. Though the bonds and interest were to be paid out of a sinking fund which received its revenues from moneys collected by the commissioners, yet the debt was a state obligation. If for any reason the money in the sinking fund had been insufficient to pay the debt when due, the state would have been under obligation to pay the debt with any money in the state treasury. These bonds became due and were paid on January 1, 1912.[42]

On July 12, 1897, a thousand-dollar bond of the civil debt of 1857 was paid. Excepting this item, no reduction has been made in the outstanding indebtedness from 1896 to 1910. In his biennial report, dated December 15, 1910, State Controller A. B. Nye strongly urged the legislature to provide for the refunding or paying off of the funded debt bonds of 1873, held in trust by by the state treasurer for the benefit of the school and state university funds, but no action was taken by it.

An act of March 20, 1903, known as the San Francisco Seawall Act, authorized the state treasurer to issue and sell $2,000,000 worth of 4 per cent state bonds. The revenue derived from the sale of these bonds has been and is being used by the state board of harbor commissioners, to extend and construct the seawall in the harbor of San Francisco. The last of the bonds

[40] No interest was paid on the outstanding bonds of 1857 and 1860.

[41] These bonds were sold to Farson, Leach & Co. at $101 3/16. The total premium received was $7,125.

[42] *San Francisco Call*, January 3, 1912.

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were sold January 3, 1910, so that the full issue is now outstanding. Both the principal and interest are to be paid out of the receipts of the board of state harbor commissioners.

The New Bond Issues

Within the last few years California has abandoned her conservative policy relative to state indebtedness. It will be remembered that the constitution of 1849 prohibited the legislature, excepting the first legislature, from creating a state indebtedness in excess of $300,000. Any state indebtedness above that amount had to be approved by the people and paid within twenty years from the date such debt was incurred. These limitations on on public indebtedness, with minor exceptions, were incorporated in the constitution of 1879. At that time, as in 1849, popular opinion was against a large public debt. It is only during the last few years that the pendulum has begun to swing in the opposite direction. The financial demands made on the state, counties, and municipalities have increased so rapidly that the current receipts have been insufficient to pay current expenditures and finance permanent improvements. Experience has proven that the twenty-year constitutional restriction on state indebtedness had a tendency to retard the construction of permanent improvements. In 1892 a constitutional amendment, which permits counties and municipalities to issue forty-year bonds, was ratified. By another amendent ratified in 1906, the cities of San Francisco and San José, and the town of Santa Clara, may sell seventy-year bonds. During the session of the legislature in 1907, a committee of San Francisco business men presented a request for a constitutional amendment making it easier to finance the harbor improvements in San Francisco. The legislature acted favorably upon the request and proposed a constitutional amendment, allowing the state to issue and sell seventy-five year bonds. This amendment was ratified at the November election in 1908, and made possible the assumption in 1910 of a state bonded indebtedness of $29,500,000. Of this amount, $18,000,000 is to be used to acquire and construct a system of state highways; $9,000,000 to improve the harbor of San

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Francisco; $1,000,000 to acquire and improve land adjoining India Basin in the harbor of San Francisco, and $1,500,000 to improve the harbor of San Diego.

The State Highway Act[43]

This act was approved March 22, 1909, and ratified November 8, 1910. It authorizes the state treasurer to issue and sell state bonds as directed by the governor, to an amount not exceeding $18,000,000. The bonds are to bear the date of July 3, 1911, and are payable as follows: the first 400 ($400,000) are due and payable July 3, 1917; thereafter until 1961, 400 of the bonds, numbered consecutively, become due and payable annually. The interest, four per cent per annum, is payable semi-annually by the state treasurer. But whenever any money received from the sale of the bonds is expended in any county, for the acquisition of a right-of-way and the construction of a highway, that county must pay into the state treasury, each year, a sum equivalent to the four per cent interest paid on the money expended in the county. The bonds shall be sold in such amounts as the governor shall direct, but he can order a sale only after being requested to do so, by a resolution adopted by a majority vote of the advisory board of the department of engineering. The act appropriates from the general fund in the state treasury such a sum annually as will be necessary to pay the interest and the principal of the bonds when due and payable.

The Harbor Bonds

The San Francisco Harbor Improvement Act[44] was approved March 20, 1909. It authorized the issuance and sale of bonds to an amount not exceeding $9,000,000. The proceeds from the sale of these bonds are to be used to defray the cost of constructing seawalls, wharves, piers, docks, state railroad, spur tracks,

[43] For a discussion of this act see *Transactions of the Commonwealth Club of California*, vol. 5, no. 7, p. 450.

[44] *Ibid.*, vol. 5, no. 6, pp. 407–417.

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etc. The bonds, dated July 2, 1911, bear 4 per cent interest and mature July 2, 1985. They are to be sold by the state treasurer, upon the request of the board of state harbor commissioners. The request of the commissioners must be approved by the governor of the state or the mayor of San Francisco. Before either of these officials gives his approval to the request, he shall be convinced that the actual or the anticipated receipts of the harbor board warrant the sale of the bonds. Both the interest and the principal are to be paid out of the fees and charges collected by the commissioners. While the payment of the debt incurred by this amendment is thus provided for by other means than by general taxation, the amendment nevertheless declares that the bonds "shall be and constitute a valid and binding obligation upon the State of California."

The San Diego Seawall Act, approved April 16, 1909, and ratified November 8, 1910, authorizes the issuance and sale of $1,500,000 4 per cent state bonds, the proceeds of which are to be used to pay the cost of improving the harbor of San Diego. The bonds are to be sold under the same conditions as the San Francisco harbor improvement bonds, except that the mayor of San Diego has no authority to order the state treasurer to sell any of the bonds. The interest and principal are to be paid out of the receipts collected by the San Diego harbor commissioners.

The India Basin Act, approved March 24, 1909, and ratified November 8, 1910, authorizes the issuance and sale of $1,000,000 4 per cent state bonds, to acquire the necessary area for a tidal basin and extend the area of India Basin in the harbor of San Francisco. In this case the state treasurer must determine the amount of bonds to be sold at any one time. With this exception the bonds are issued and sold under the same conditions as the San Francisco harbor improvement bonds.

7. The County Debt

The funded and floating indebtedness of the counties of California from 1895 to 1910, as reported by the state controller, is shown by the following table:

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Year	Funded debt	Floating debt with estimated interest	Total county indebtedness
1895	$5,140,887.15	$147,725.72	$5,288.612.87
1896	4,799,187.15	110,000.39	4,909,187.54
1897	4,085,137.15	169,858.15	4,254,995.30
1898	3,937,900.00	97,612.90	4,035,512.90
1899	3,663,400.00	116,846.40	3,780,246.40
1900	3,502,700.00	126,679.40	3,629,379.40
1901	3,224,400.00	108,833.00	3,333,233.00
1902	3,088,900.00	87,042.75	3,175,942.75
1903	3,008,000.00	112,569.28	3,120,569.28
1904	2,474,300.00	125,740.62	2,600,040.62
1905	6,262,400.00	102,371.28	6,364,771.28
1906	6,448,200.00	101,825.52	6,550,025.52
1907	6,325,000.00	230,660.48	6,555,660.48
1908	7,357,650.00	247,665.69	7,605,315.69
1909	17,853,600.00	144,710.50	17,998,310.50
1910	23,023,500.00	333,911.39	23,357,411.39

These figures show a large increase in the county indebtedness in the last few years. The increase is, however, confined primarily to the City and County of San Francisco, to Los Angeles County and to Sacramento County. In 1904, the City and County of San Francisco had a debt of $11,000; in 1905, $4,245,100; in 1906, $4,568,600; in 1907, $3,867,100; in 1908, $3,439,800; in 1909, $12,152,300, and in 1910, $16,314,500. The debt of Los Angeles County in 1910 was $1,050,000; of Sacramento County, $1,656,325. Many of the counties report very little or no indebtedness. Particularly is this true of the mining counties which in 1870 were on the verge of bankruptcy and clamoring for the state to assume their indebtedness.

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CHAPTER VII

SEPARATION OF STATE AND LOCAL TAXATION

1. The History of the Tax Reform Movement

The ratification of senate constitutional amendment number one, on November 8, 1910, separating the sources of state and local taxation, marks the successful culmination of years of effort and labor on the part of those who realized the inequalities and injustices resulting from the old revenue system, and the first real step in the reform of our tax system. The history of the tax-reform movement is of sufficient interest to warrant our attention. In 1894, the state board of equalization suggested that the incoming legislature appoint a committee, or a commission, to examine the revenue laws and report to the following legislature such changes as would conform to the constitution, the decisions of the supreme court and the changed condition of the state. When the legislature met, an attempt to create a commission, the members of which were to be appointed by the governor, was defeated. But the assembly, by special resolution, appointed a special committee to revise the revenue laws. This committee, composed of Messrs. Freeman, Reid and Dinkelspiel, did not have sufficient time to make an exhaustive study of the problem they were to solve. The bill reported to the legislature by the committee became subsequently a law, but failed to produce the desired result. In 1896, the county assessors' convention, held at Sacramento, considered the subject of tax reform. During the session of the legislature in 1899, the senate passed a resolution, authorizing the appointment of a committee of three senators to investigate fully the subject of state, county, and municipal taxation and revenue, and report its findings at the beginning of the session in 1901. This committee was composed of Senators S. C. Smith of Kern County, E. K. Taylor of Alameda County, and J. C. Sims of Sonoma County. In its report the committee said:

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"From Maine to Texas and from Florida to California there is but one opinion as to the workings of the present system. That is, that it is inequitable, unfair, and positively unjust."[1] It recommended the adoption of taxes on business, or sales, to supplement the property tax. This proposal was rejected by the legislature.

In his inaugural address in 1903, Governor Pardee spoke at length on the revenue system of California and its failure to distribute properly the burdens of taxation. He referred to several eastern states which had abandoned the general property tax entirely, or in part, and to the report of the United States Industrial Commission, which concluded that the state governments should aim to abolish the general property tax for state purposes. "These matters," he said, "are referred to, not because it is believed to be possible for California to enter at once on a radical reform of its revenue system, but because it is well to take note of impending changes before they are actually forced upon us, and to promote such discussion as will prepare the way for the transition. Even if it were possible, it would be inadvisable, because unjust, to make a sudden revolutionary change, altering the whole scheme of taxation. Such changes should be gradual so as to give least shock to established industries and to vested interests." The legislature adjourned without acting upon the governor's suggestion, but the subject of tax reform began to arouse considerable popular discussion. In 1904 the Commonwealth Club of California indorsed the following propositions:

Proposition I. The abandonment of the attempt to tax all forms of property for the support of each and all departments of government (as state, county, and municipal) by a single and uniform system.

Proposition II. In particular, the abandonment of all attempts to tax intangible personal property, such as credits and securities, in the hands of owners, the taxpaying capacity represented by such to be reached in other ways.

Proposition III. The abandonment of the attempt to support both the state and local governments by taxes laid on the same sources of revenue.

[1] *Journal of Senate*, 1901, 34th Session, pp. 259–262.

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In his first biennial message, dated January 2, 1905, Governor Pardee spoke of the history of taxation in California, and urged the legislature to propose a series of amendments to the constitution, increasing the powers of the legislature over matters pertaining to taxation. He, more than any of his predecessors, realized the rigidity of the constitution, and limitations it imposed on the legislature. That body, he urged, should have the power to continue the general property tax for so long a time as it might be needed to work up adequate revenue from other sources, to discontinue this form of taxation when no longer needed, to separate state and local taxation, to adopt what might seem to the legislature the most expedient method of taxing corporations, and to exempt from local taxation certain classes of property, relied upon to produce state revenue. The legislature, instead of proposing amendments to the constitution in harmony with the governor's recommendations, passed the act of March 20, 1905, creating the Commission on Revenue and Taxation, to investigate the system of revenue and taxation in force in the state and recommend a plan for its revision and reform. As organized under the act, the commission consisted of Senators M. L. Ward, and J. B. Curtin; Assemblymen E. F. Treadwell and H. S. G. McCartney; Professor C. C. Plehn, as expert on taxation and public finance, and the governor of the state, who was a member ex-officio and chairman.

2. Report of the Commission on Revenue and Taxation

After an exhaustive study and examination, not only of the California revenue laws, but those of other states as well, the commission published a preliminary report in August, 1906, and a final report in December of the same year. The more important defects of the old system of taxation as viewed by the commission were:

1. The revenue laws had not been revised to keep pace with the modern conditions and did not meet the demands made upon them.

2. The system of taxation was full of inequalities which imposed a handicap on the growth of the state. It placed an undue burden upon agriculture. The taxes paid by California farmers were equivalent to an income tax of 10 per cent, while

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the taxes paid by manufactures were equivalent to an income tax of but 2 per cent.

3. The general property tax, so-called, had become primarily a tax on real estate, only from 15 to 18 per cent of the total taxes being levied on personal property.

4. National banks paid no taxes except on the real estate owned by them. Savings banks were the only banks which paid their full share of taxes.

5. Money and credits escaped taxation almost entirely. The provisions of the law in regard to the taxation of this class of property were unenforceable and so full of absurdities that they should be repealed.

6. The inequalities of assessment between real estate and personal property, between different classes of personal property, between counties, between city and county, could not be removed by the state board of equalization.

7. The original inequalities in the assessments were always intensified by the adding of one tax to another, on the same base.

8. The revenue derived from the taxation of large corporations, such as railroads, should not be distributed to local communities, but should be used for general or state purposes.[2]

The commission was unanimous in the opinion that the first step in the reform of taxation was the separation of state from local taxation, as to sources of revenue. It recommended[3] that the state should eventually abandon the general property tax to the counties and municipalities and use, in lieu thereof, a tax measured by the gross receipts on the property of railroads, including street railway companies, express companies, car companies, gas and electric companies, telegraph and telephone companies, a tax on the shares of the capital stock of all banks at 1 per cent of the book value of the stock, and a tax at the rate of 1 per cent on the assessed value of all corporate franchises, except such as were covered by the taxes just mentioned. In addition to these taxes, the state was to retain the poll tax, the inheritance tax, the tax on insurance companies, the annual license tax on corporations, all fees collected, the collections of

[2] *Report of Commission on Revenue and Taxation*, 1906, pp. 9–10.

[3] *Ibid.*, pp. 11–21.

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state institutions, the revenue from the sale of the state lands, and the earnings of state property and investments.

On March 9 of the following year, the legislature adopted a resolution, proposing an amendment to the state constitution to carry out the proposed changes advocated by the Commission on Revenue and Taxation. The amendment caused considerable discussion[4] prior to the election in November, 1908. The arguments against its adoption were:

1. That it was too inflexible. That it made no provision for changing any of the rates should they be found to be inadequate or unfair. If the taxes imposed by the state were too low, there was no way of raising the rate except by another constitutional amendment.

2. That the amendment was not clear, whether or not public service corporations were exempt from paying their share of past bonded indebtedness of counties and municipalities. Many of the counties and cities of the state had incurred a bonded indebtedness on the faith that all property then in the counties or cities would be subject to taxation for its fair share of the indebtedness. To relieve public service corporations from paying their share of this indebtedness, it was claimed, would shift too great a burden upon the remaining property.[5]

Of the 202,081 votes cast on this amendment, 87,977 were in favor of its adoption and 114,104 against it. Though the amendment was defeated, the commission was unanimous in the opinion that it should be again submitted. A new amendment, obviating the objections raised against the former one, was prepared, introduced in the legislature, and adopted on March 19, 1909. On March 25, 1909, the act creating the commission on Revenue and Taxation was amended and the governor authorized to appoint one commissioner, versed in matters relative to taxation, and a secretary who was an expert on the science of finance and taxation. As members of this commission Governor Gillett appointed Senator J. B. Curtin, commissioner, and Professor C. C. Plehn as secretary. The specific duty of the re-

[4] For a discussion of this amendment see the *Transactions of the Commonwealth Club of California*, vol. 3, no. 4, May, 1908.

[5] *Report of Commission on Revenue and Taxation*, 1910, pp. 12–13.

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organized commission was to show the effect of the proposed amendment in its operation. This commission reported September 1, 1910. On October 5, 1910, the legislature, having met in extra session, revised the amendment in respect to the rate of taxation on the value of the capital stock issued by banks, by raising it from six-tenths of one per cent to one per cent and also in respect to the majority necessary to change the rates. At the election on November 8, 1910, 141,312 votes were cast in favor of the adoption of the amendment and 96,493 against it.

3. The Amendment of 1910

The amendment is usually spoken of as Senate Constitutional Amendment Number One[6] and levies for state purposes the following taxes[7] computed at:

1. Four per cent of the gross receipts[8] of all railroad companies, including street railways, whether operated in one or more counties in this state.

2. Three per cent of the gross receipts of sleeping-car, dining-car, drawing-car, palace-car, refrigerator, oil, stock, fruit, or other car-loaning companies.

3. Two per cent of the gross receipts of express companies doing business on any railroad, steamboat, vessel, or stage line in the state.

4. Three and one-half per cent of the gross receipts of telephone or telegraph companies.

5. Four per cent of the gross receipts of companies engaged in the transmission or sale of gas or electricity.

6. One and one-half per cent of the amount of gross premiums received by insurance companies on business done in this

[6] For a discussion of this amendment see *Transactions of the Commonwealth Club of California*, vol. 5, no. 6, Sept., 1910.

[7] Constitution of California as amended Nov. 8, 1910, art. XIII, sec. 14.

[8] When any of the above companies operates partly within and partly without the state, the gross receipts from operative property within this state shall be deemed to be all receipts on business beginning and ending in this state and a proportion, based upon the proportion of the mileage within the state, to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this state.

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state, less return premiums and reinsurance in companies authorized to to do business in this state. Insurance companies are allowed to deduct taxes paid on real estate located in the counties, cities or city and county, as stated on page 355.

7. One per cent on the shares of the capital stock of banks. The value of a share is to be taken at the amount paid thereon together with its pro rata of the accumulated surplus and undivided profits. In determining the value of the capital stock of a bank, the state board of equalization shall deduct from the value, as defined above, the value, as assessed for county taxes, of any real estate, other than mortgage interests therein, owned by such bank and taxed for county purposes.[9]

8. One per cent of the assessed value of all franchises other than those of the classes of companies mentioned above.

The revenue derived from the sources just enumerated is to be used exclusively for state purposes. The amendment provides that all property, except that of banks, shall be subject to taxation in a manner to be provided by law, to pay the principal and interest of any bonded indebtedness, created and outstanding, by any city, city and county, county, town, township or district before the adoption of this amendment. Until 1918, the state must reimburse the counties sustaining a net loss because of the withdrawal of railroad property from local taxation. But no reimbursement is allowed for the withdrawal of any other kind of property. The rates[10] as fixed by the amendment are to remain in force until changed by the legislature, but such changes cannot be made unless two-thirds of the members elected to the senate and assembly concur.

[9] *Statutes and Amendments to the Codes*, 1911, p. 530–57.

[10] An amendment to the Act of April 1, 1911, approved February 3, 1913, has established the following rates:

Railroad companies, including street railways	4.75%
Car companies	4.00%
Express companies	2.00%
Telegraph and telephone companies	4.20%
Gas and electric companies	4.60%
Insurance companies	1.75%
Banks	1.00%
Franchises	1.00%

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4. The State Board of Equalization

An act to carry into effect the provisions of the amendment was approved on April 1, 1911. This act and the amendment have greatly increased the power and duties of the state board of equalization. It must assess and levy the taxes on the various corporations mentioned in the amendment. It may make rules and issue instructions for the guidance of assessors to determine what is operative and what non-operative property. In case of a dispute as to which class a certain species of property belongs, it is the final arbiter. It has the power to prescribe the forms on which the different corporations and companies obliged to pay state taxes, must report. Whenever necessary, it may inspect property and collect such information as will enable it to assess and levy taxes. It may issue subpoenas for the attendance of witnesses, or the production of books before the board, and is authorized and empowered to examine all books of persons and companies required to report to it.

5. Effects of the Amendment

The taxes levied on the various classes of corporations as shown by the *Special Report on Taxation showing First Effects of Separation on State, County, and Municipal Revenues and Tax Rates,* published by the state board of equalization on December 1, 1911, were as follows:

Steam Railroads	$3,736,000.00
Street Railways	1,040,000.00
Telegraph Companies	25,000.00
Telephone Companies	400,000.00
Express Companies	102,000.00
Car Companies	89,000.00
Gas and Electric Companies	1,225,000.00
Banks	1,635,000.00
Insurance Companies	523,000.00
Franchises	1,678,000.00
Total	$10,453,000.00

This amount, added to the other state receipts, brought the available revenue up to approximately $12,678,000.00. The amount directed by the legislature to be raised was $12,400,000.00,

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and being less than the amount raised, the state board of equalization did not levy any *ad valorem* tax except a tax of five cents on every one hundred dollars for the Panama Pacific International Exposition. This five cent tax was levied in accordance with Senate Constitutional Amendment No. 42, ratified November 8, 1910, which directed the state board of equalization to fix and levy such an *ad valorem* state rate of taxation for the fiscal year beginning July 1, 1911, and for each succeeding fiscal year up to and including the fiscal year beginning July 1, 1914, as would produce for each fiscal year $1,250,000. The amendment further provides that this tax shall be assessed, levied and collected under the tax laws that were in force July 1, 1910. Because of this amendment, the old revenue law will remain in force until 1915, after which it will govern only local taxation.

Up to the present time (*April 26, 1912*) the new law has not occasioned any serious litigation. According to figures computed by the state board of equalization, the net gain to county taxpayers because of the new tax system, has been, in the past year, $3,537,121.16. During the same time the county expenditures have increased $3,403,356.55 over those of the previous year. Counties which have suffered a net loss because of the withdrawal of railroad property from assessment have been reimbursed as provided by law, and some bond-refunding settlements have been effected.

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State Board of Equalization	Secretary of State's office	State Treasurer's office
.....	$6,104.61	$6,875.09
.....	17,836.93	17,414.58
.....	9,316.79	13,968.12
.....	17,515.68	17,387.23
.....	17,027.41	17,923.65
.....	16,724.96	15,210.95
.....	18,875.84	20,343.27
.....	11,956.65	10,813.91
.....	16,489.15	16,567.75
.....	13,100.00	15,754.32
.....	11,611.75	13,711.06
.....	10,782.19	11,151.38
.....	8,231.50	10,895.99
.....	11,662.24	12,785.67
.....	9,953.85	9,355.81
.....	13,006.03	9,375.00
.....	10,753.54	9,500.00
.....	10,676.34	9,500.00
.....	11,050.00	10,400.00
.....	10,750.00	12,700.00
.....	10,750.00	9,700.00
9,166.66	14,145.68	13,800.00
10,467.75	14,787.44	11,200.00
16,250.00	17,162.54	11,700.00
16,250.00	19,700.00	11,700.00
7,100.00	16,350.00	11,550.00
11,530.00	18,836.66	11,550.00
.....	16,178.50	10,900.00
.....	18,020.72	10,900.00
.....	16,310.39	10,750.00
8,356.68	15,465.03	11,042.49
15,558.11	14,431.32	10,203.40
15,431.20	11,965.19	9,881.50
16,380.80	13,560.69	9,828.84
17,047.46	12,321.58	9,807.66
18,506.86	12,847.35	9,783.38
17,086.15	11,669.94	9,861.69
17,007.74	12,551.57	9,853.98
17,972.12	12,073.42	9,834.14
18,705.44	13,004.95	11,472.05
18,642.81	13,918.51	11,307.45
18,425.04	14,963.66	11,835.51
20,327.58	16,052.56	11,216.22
21,730.00	15,211.10	11,315.61
19,581.48	14,085.12	11,297.51
20,389.00	16,810.62	11,723.50
20,061.40	16,293.81	13,440.93
19,320.11	17,101.84	13,328.31
19,545.73	16,224.74	13,367.37
20,701.55	17,381.58	13,426.39
20,713.77	17,925.99	13,424.35
19,501.94	19,351.20	13,491.70
20,650.58	21,361.22	13,461.45
19,162.40	22,295.89	13,892.50
20,878.35	25,954.90	14,831.60
20,048.78	34,580.36	15,109.77
20,249.66	42,708.16	15,616.42
20,600.81	50.070.74	15,877.86
21,214.69	58,613.00	16,490.39
29,912.75	69,483.59	18,178.12
41,123.47	80,822.50	20,188.93

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CHAPTER VIII

THE DETAILS OF STATE EXPENDITURES, 1850–1910

1. Introduction

Heretofore, the references to state expenditures have been only incidental to the discussion of the revenues. It is in this chapter that we propose to show the growth of the state institutions, judged from the point of view of their expenditures; the ever-increasing functions of the state government, as represented by the creation of new departments, boards, bureaus and commissions; and the annual disbursements of the state for various purposes. To facilitate the discussion, tables showing the annual expenditures of the different departments, bureaus and commissions of the state government, have been inserted at the proper places throughout this chapter. The discussion will be confined to an interpretation of these tables, based to some extent on the classification adopted by State Controller A. B. Nye in his report dated December 15, 1910.[1] The state expenditures will be considered in the following order:

(1) administrative, (2) legislative, (3) judicial and legal, including printing; (4) military, (5) penal and reformatory, (6) educational, (7) charitable and benevolent, (8) miscellaneous departments, bureaus and commissions.

2. Administrative Expenditures

Under the general administrative expenditures, shown by Table I opposite, are included the salaries and contingent expenses of the governor's office; of the state controller's office; of the state board of examiners (now the state board of control); of the state board of equalization, of the state treasurer's office, and of the secretary of state's office. The reader's attention is especially called to the large administrative expenditures from

[1] *Report* for 1908–09 and 1909–10, p. 30. Any person interested in the increase of the state expenditures during the last ten years, should consult the last two biennial reports of the state controller.

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1850 to about 1865, the gradual reduction from 1865 to approximately 1885, and the increase from 1885 to 1910. These changes were caused primarily by decreases and increases in the salaries of state officials and their assistants. Except in a few instances, when some special investigation was being conducted, the contingent expenses—postage, expressage, traveling expenses, fuel and light—have not been of very great importance. For 1910 the contingent expenses of the governor's office amounted to about one-seventh of the total for that office; of the controller's office to about one-ninth, of the state board of examiners to about one-sixteenth, of the state board of equalization to about one-eighth, excluding the extraordinary expenses for collecting data—including these, to about one-half; of the secretary of state's office to about one-sixteenth, and of the state treasurer's office to about one-twenty-fifth.

The constitution of 1849 fixed the salary of the governor at $10,000 per annum until changed by the legislature. Because of a fall in prices and the business depression caused by the panic of 1850, and of the deficit in the state treasury, the legislature by an act of May 1, 1851, reduced the governor's salary to $6,000, but restored it to the former figure in the following year. In 1856, in response to the general demand for retrenchment, the governor's salary was again reduced to $6,000, but was raised to $7,000 in 1861. No further changes were made until the ratification of the constitution of 1879, which not only fixed the salary of the governor at $6,000 per annum, but prohibited the legislature from increasing it. This constitutional limitation was not removed by the constitutional amendment of November 3, 1908, which fixes the governor's salary at $10,000 per annum.

Until the ratification of the constitution of 1879, the legislature had the power to fix the salaries of all other administrative officers. In determining the compensation of these officers, the first legislature was persuaded that the only way to secure the services of honest and competent men was to offer liberal compensation. By an act of March 5, 1850, the controller was allowed an annual salary of $8,000, the state treasurer $9,000, and the secretary of state $7,000. The reasons which induced

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the legislature to lower the salary of the governor in 1851 also caused it to reduce the salaries of the other state officials. An act of May 1, 1851, fixed the salary of the controller at $5,000, that of the state treasurer at $5,000, and that of the secretary of state at $3,500. In 1852 the salaries of the controller and state treasurer were reduced to $4,500 per annum, and in 1856 to $3,500, the same as that of the secretary of state. As a result of the improved financial condition of the state government, the legislature by an act of May 6, 1861, raised the salaries of each of the officers just referred to, to $4,000 per annum. This amount appeared exorbitant to the constitutional convention of 1879, which fixed the annual salary of each at $3,000, which amount was to be in full for all services rendered in any official capacity.

Because of the large increase in the duties and responsibilities of the controller, of the treasurer and of the secretary of state[2] during the last ten years, the salaries of each of these officials was increased to $5,000 per annum by a constitutional amendment ratified November 3, 1908.

a. The State Board of Examiners

In 1856, the legislature, because of the defalcations of State Treasurer McMeans, and the careless manner in which he kept his accounts, created a state board of examiners for the purpose of protecting the state treasury. This board consisted of the governor, the secretary of state and the attorney-general. Each of the last two received an annual salary of $600.00 They had to examine, at least once a month, the books of the controller and the state treasurer. Moreover, the board had to examine all warrants except those for the payment of the salaries of the state officers. An act of 1858 allowed the governor an annual salary of $1,000 for his services as a member of the state board of examiners; the secretary of state, $1,000, and the attorney-general $1,500. This law was repealed by an act of February 5, 1880, because of section 19 of article v of the constitution of 1879,

[2] The very large increase in the expenditures in the office of the secretary of state from 1901 ($19,351.20) to 1910 ($80,822.50) is explained by the addition of a motor vehicle license department, the corporation license tax department, and the necessary increase in the clerical force.

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which prohibits these and various other state officials from accepting any compensation other than that mentioned in the section for additional services they may be called upon to perform. An act of March 10, 1891, allowed the secretary of the board an annual salary of $2,400, and the assistant secretary $1,800. Since then the legislature has increased the salaries of these officials to $3,600 and $3,000 respectively, and has authorized the board to employ several clerks and an expert.

An act of April 3, 1911, creating a state board of control[3] consisting of three members appointed by the governor to hold office during his pleasure, repealed the law establishing the state board of examiners. Each member of the board of control receives an annual salary of $4,000.

b. State Board of Equalization

The condition which gave rise to the state board of equalization, and the powers of the board, have been discussed in the preceding chapters. The act of April 4, 1870, creating the state board of equalization, provided that each of the two members

[3] The powers and duties of the state board of control are:

1. To examine and expert at least once a year, the books of the state prisons, reformatories, hospitals, and other state institutions; of state officers, bureaus, and commissions.
2. To visit upon its own motion or upon the request of the governor every institution supported in whole or in part by state appropriations, in order to ascertain the conditions, wants, and requirements of such institutions.
3. To examine every claim against the state.
4. To count, at least once a month, the money in the state treasury.
5. The board must invest in United States, state, county, city and county, city, road or school district bonds, the proceeds from the sale of public lands when the same amount to $10,000; and also the money in the estates of deceased persons fund when the amount in that fund exceeds $10,000.
6. The board may authorize the creation of deficiencies after having secured the written approval of the governor.
7. The board has general powers and supervision over all matters concerning the business and financial policies of the state.
8. The board must approve, before becoming effective, all contracts entered into by any state officer, board, bureau, commission or department of the state government.
9. The board of control, through the department of public accounting, created by this act, shall devise, install and supervise a uniform system of accounting and reporting for all officers of the state, charged with the keeping and control of public money. (*Statutes of California*, 1911, pp. 590–598).

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TABLE II.—TABLE SHOWING THE TOTAL LEGISLATIVE, JUDICIAL AND LEGAL EXPENDITURES (EXCLUSIVE OF PRINTING) AND THE TOTAL PRINTING EXPENDITURES OF THE STATE OF CALIFORNIA, 1850–1910 INCLUSIVE

Year	Legislature	Judicial (Courts)	Legal (Attorney-General)	Printing
1850	$218,824.94	$26,996.50	$2,562.62	$145,484.62
1851	220,432.10	85,537.72	24,351.76	201,487.02
1852	347,626.54	136,806.03	35,151.39	274,594.77
1853	315,706.70	100,291.28	42,979.04	146,503.82
1854	299,923.59	91,706.66	39,389.91	88,612.21
1855	398,786.10	103,611.62	24,046.53	140,155.21
1856	345,896.85	105,115.01	23,131.21	135,837.95
1857	168,971.15	81,342.34	4,651.83	65,028.02
1858	265,925.56	132,093.35	10,280.88	90,407.08
1859	191,271.01	98,313.14	9,327.75	51,162.20
1860	235,106.17	127,467.54	9,154.78	54,758.55
1861	239,531.09	94,349.59	6,135.38	40,513.26
1862	158,334.62	81,549.10	5,391.61	48,405.58
1863	293,926.84	143,495.64	42,083.90	70,642.12
1864	224,858.11	97,744.87	7,351.75	70,443.69
1865	11,130.37	104,681.55	6,916.55	52,515.01
1866	259,434.86	109,594.62	8,146.30	65,685.40
1867	7,156.58	108,564.24	8,527.25	55,814.65
1868	245,130.93	117,522.51	7,502.29	63,356.35
1869	5,510.72	117,081.76	7,150.00	39,066.82
1870	274,897.75	116,219.19	8,726.27	72,000.00
1871	1,820.00	117,843.88	10,038.70	49,000.00
1872	278,115.79	116,778.79	9,292.30	135,031.12
1873	3,453.29	137,374.02	8,237.50	64,474.48
1874	234,775.14	152,837.05	24,992.59	140,827.27
1875	517,50	153,870.00	9,126.93	49,999.78
1876	229,959.46	156,036.59	9,324.40	135,202.53
1877	3,642.62	163,600.00	15,759.76	45,196.62
1878	228,570.28	166,732.77	9,649.11	72,209.74
1879	3,647.30	183,409.35	6,959.50	52,748.58
1880	161,330.96	189,159.03	11,242.97	139,140.05
1881	168,506.63	209,784.32	7,639.65	114,738.32
1882	674.42	202,253.17	7,772.95	55,859.51
1883	119,909.00	199,927.22	12,354.25	89,763.20
1884	76,478.59	201,441.11	9,313.80	63,767.32
1885	133,481.10	203,701.14	11,038.98	77,488.93
1886	560.85	217,411.66	8,626.45	187,978.00
1887	226,900.52	237,520.13	12,017.85	172,092.58
1888	539.95	227,807.93	12,477.54	220,894.92
1889	193,620.68	238,671.05	25,340.19	262,621.04
1890	949.50	257,963.09	15,331.04	247,877.68
1891	159,875.61	267,139.52	14,123.26	234,204.14
1892	283.99	268,459.46	22,664.19	217,158.27
1893	216,679.34	273,577.95	47,394.45	293,604.08
1894	1,443.67	277,696.12	20,103.00	270,364.53
1895	247,030.94	278,568.02	26,661.73	288,170.09
1896	414.88	286,526.61	22,458.70	289,589.76
1897	219,947.99	281,177.20	53,777.80	285,283.05
1898	1,073.70	279,320.77	22,799.52	99,024.09
1899	176,817.30	278,861.75	29,974.27	208,952.81
1900	23,521.90	282,890.03	27,408.11	192,225.87
1901	194,317.29	280,894.35	24,560.70	320,340.35
1902	986.90	281,974.41	26,824.22	229,053.17
1903	222,390.57	287,858.73	31,377.61	290,333.65
1904	26,167.53	292,388.59	38,068.61	311,596.31
1905	254,886.43	304,297.46	28,648.86	393,639.68
1906	26,224.37	353,344.35	25,538.28	343,464.10
1907	265,298.52	386,169.22	33,956.69	403,532.84
1908	17,954.50	206,240.03	31,316.19	329,374.75
1909	247,997.00	434,779.90	34,191.75	383,744.27
1910	1,828.90	446,789.05	36,648.79	358,838.35

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appointed by the governor was to receive a salary of $3,000 per annum. After the act creating the board had been declared unconstitutional, the legislature established an ex-officio board, composed of the governor, the state controller and the attorney-general. This board was replaced by the one created by the constitution of 1879. By statute, the salary of each of the members, fixed at $3,000, has recently been increased to $4,000 per annum. The large increase in the expenditures for 1908–09 and 1909–10 was caused by an increase in the contingent expenses of the board incurred for the purpose of collecting data relative to the revenue system of California.

3. Legislative Expenditures

The legislative expenditures include such items as the per diem pay of the members and officers of the legislature, the mileage paid to assemblymen and state senators, the contingent expenses of the assembly and the senate, during the earlier years of the state's history the cost of translating laws into the Spanish and Chinese languages, and the cost of indexing journals and laws. Article IV, section 24, of the present constitution expressly prohibits the publication of official writings, executive, legislative or judicial proceedings, in any other than the English language. Under the former constitution, the legislature in 1850, because of the large Spanish and Mexican population in California, created the office of state translator, who received an annual salary of $8,000. In 1851, the act establishing the office of state translator was repealed and the secretary of state authorized to award to the lowest bidder the translation of the laws into Spanish.

Table II, opposite, shows the annual legislative expenditures. The constitution of 1849 provided annual sessions of the legislature. The first real step toward legislative economy was the ratification of a constitutional amendment on September 3, 1862, which required the legislature to meet biennially, and limited the length of the session to one hundred and twenty-five days. A further reduction in legislative expenditures was effected by the ratification of the constitution of 1879, which limited the biennial session of the legislature to sixty days.

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The constitution of 1849 allowed the members of the legislature sixteen dollars per diem and sixteen dollars for every twenty miles traveled in going from their homes to the state capitol to attend a meeting of the legislature and returning therefrom. An act of May 1, 1851, reduced the per diem to six dollars and mileage of eight dollars for every twenty miles traveled. An act of May 4, 1852, increased the per diem to twelve dollars, but did not change the allowance for mileage. For 1855, the legislative expenses were $398,786.10; for 1856, they were $345,896.85, or nearly one-fourth of the total state expenditures. No longer were the legislators able to conceal and defend their extravagances. The people's demand for economy in state expenditures was answered in part by an act of April 1, 1856, which fixed the compensation of the members of the legislature at ten dollars per diem for the first ninety days of the session and at five dollars per diem for each day in excess, and reduced the mileage to four dollars per twenty miles. The pay of the officers of the legislature and the contingent expenses were also reduced. As a result, the expenditures for 1857 were $168,971.15, or $176,925.70 less than for the previous year. In 1864, largely because of the introduction of the biennial sessions, that part of the law restricting the compensation to ten dollars per diem for the first ninety days was repealed. In 1872, the mileage allowed members of the legislature was reduced to three dollars for every twenty miles. An act of April 1, 1878, reduced the per diem to eight dollars. Article iv, section 23, of the constitution of 1879, authorized the legislature to fix the compensation of members of the legislature, but such compensation could not exceed eight dollars per diem, nor ten cents per mile, while the contingent expenses during each regular session were limited to twenty-five dollars per member. This section of the constitution was amended November 3, 1908, so that at present members of the legislature receive $1,000 for each regular session and ten dollars per diem for each day in attendance at a special session, not exceeding thirty days. The amendment did not alter the mileage or contingent expenses allowed the members of the legislature, but limits the expense of each branch of the legislature for officers, employees and attaches, to $500 per day during a regular session and to $200 a day during an extra session.

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The compensation of the members of the assembly and the senate, the pay of officers, and the contingent expenses for certain years are shown by the following table:

TABLE SHOWING THE EXPENDITURES OF THE ASSEMBLY AND THE SENATE FOR CERTAIN YEARS

Year	Per diem and mileage of members	Per diem of officers	Contingent expenses	Total
		The Assembly		
1850	$78,608.40	$19,931.00	$24,376.21	$122,915.61
1855	132,935.20	68,875.00	not segregated*	201,810.20
1860	89,017.40	14,108.95	22,135.10	125,261.45
1866	101,068.60	13,748.00	25,266.49	140,083.09
1872	100,994.80	12,848.00	55,466.77	169,309.57
1878	99,282.00	12,048.00	25,114.12	136,444.12
1881	67,108.15	10,519.25	26,940.45	104,567.85
1887	65,930.70	10,744.00	50,613.83	127,288.53
1893	41,332.20	7,852.00	58,490.08	107,674.28
1899	41,321.40	27,769.50	24,707.58	93,798.48
1903	41,213.20	27,050.00	59,922.30	128,185.50
1909	83,042.00	28,126.00	35,856.21	147,024.21
		The Senate		
1850	52,495.20	19,715.00	20,681.13	92,891.33
1855	56,638.20	56,945.00	not segregated*	113,583.20
1860	39,607.60	14,265.00	16,311.00	70,183.60
1866	51,064.00	13,000.00	20,426.24	84,490.24
1872	51,999.05	12,070.00	43,679.46	107,748.51
1878	50,659.30	11,320.00	27,500.00	89,479.30
1881	34,998.00	8,511.00	17,107.35	60,616.35
1887	34,137.20	10,152.00	43,998.14	88,287.34
1893	21,233.60	7,161.00	43,966.03	72,360.63
1899	21,225.00	20,175.00	35,431.09	76,831.09
1903	21,460.10	19,233.50	51,950.00	92,643.60
1909	41,628.80	22,096.00	37,247.99	100,972.79

* Contingent expenses of the legislature in 1855 were $59,200.58

4. Judicial and Legal Expenditures

The judicial expenditures, unlike the administrative and legislative, were not reduced by the ratification of the constitution of 1879. It provided for a supreme court composed of a chief justice and six associate justices, instead of four associate jus-

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tices as under the old constitution. For the districts courts it substituted the county courts, the state paying one-half of the salary of the county judges. In 1904, because of the congested condition in the supreme court, the constitution was amended and three district courts of appeal established. Each district court of appeal is composed of three justices, elected, as the justices of the supreme court, for a term of twelve years.

The table opposite page 381 shows that the judicial expenditures fluctuated considerably between 1850 and 1860, but that since the latter date they have been gradually increasing. They include: the salaries of the justices of the supreme court; the salary and expense of the clerk of the supreme court; the salaries of the supreme court reporters, bailiffs, secretaries, etc., the salaries of the justices of the district courts; since 1879, one-half of the salaries of the county judges; the salaries of the justices of the district court of appeal; the contingent expenses of the supreme court and of the district courts of appeal.

An act of March 5, 1850, fixed the salary of each of the justices of the supreme court at $10,000 per annum. In 1856 it was reduced to $6,000. No other changes were made in the salaries of the justices until the ratification of a constitutional amendment November 6, 1906, which raised it to $8,000 per annum. The same amendment fixes the salary of each of the justices of the district court of appeals at $7,000 per annum. The growth of the more important judicial expenditures is illustrated by the following table:

Year	Salaries of justices of the supreme court	Contingent expenses of the supreme court	Clerk of the supreme court	Reporters of the Supreme court	Salaries supreme court commissioners	Salaries & contingent expenses of district court	District court of appeals salaries
1851	$32,719.17	$2,199.25	.....	.....	.....	$50,619.30	.....
1860	22,860.18	3,649.74	.....	$4,000.00	.....	94,467.62	.....
1870	30,000.00	2,405,75	$7,330.00	4,000.00	.....	68,883.44	.....
1880	35,548.50	10,059.35	10,071.20	5,967.75	21,400.00*	116,913.53†	.....
1890	42,000.00	17,392.16	12,480.00	7,900.00	32,400.00	132,833.53‡	.....
1900	42,000.00	17,514.61	17,380.00	10,300.00	32,266.65	156,800.05‡	.....
1910	56,000.00	30,298.86	17,920.00	10,300.00	.....	225,977.75‡	$89,925.00

* For 1886.

† Includes $56,414.15 paid to judges of superior courts.

‡ Payments to judges of superior courts.

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Legal Expenses

The legal expenditures, including the expense of the office of the attorney-general and the cost of employing special counsel, were very large from 1850 to 1857. During the first few years of the state's existence the state paid the salaries of the district attorneys. These expenses, in 1851, amounted to $12,216.43, in 1852 to $23,746.73 and in 1853 to $26,934.21. In order to reduce the state expenditures an act was passed in 1853 which required the counties to pay the salaries of the district attorneys. The first legislature allowed the attorney-general a salary of $7,000; in 1851, the salary was reduced to $1,000, but was raised to $2,000 in 1852. In 1854, the legal department expended $25,430 to prosecute violations of the revenue laws, while in 1855, $14,143 was expended to pay special counsel employed to prosecute cases arising under the laws relating to escheated estates. From 1856 to 1890, the expenses of the legal department, as shown in Table II, opposite page 381, were comparatively low. Since 1890 the ordinary expenses of the department have more than doubled. This increase has been the result of the increase in the salary of the attorney-general from $3,000 per annum, fixed by the constitution in 1879, to $6,000 in 1908; and the employment of additional deputies, clerks, etc., to take care of the large increased business.

Printing

It is difficult to classify the printing expenditures. At first this was primarily a legislative expense, including the cost of printing the *Journals* of the senate and the assembly, the reports of legislative committees, and the statutes. Today, all state printing, including school textbooks, is done at the state printing office.

An act of January 5, 1850, created the office of state printer. The price which the state printer was to receive for each specific description of work was fixed by the legislature. In 1851, the

[4] Cost of employing special counsel:

1863	$35,347.24	1893	$31,915.10
1874	18,878.59	1897	32,718.43
1889	18,745.28	1904	14,902.33

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compensation was reduced 40 per cent, while in 1852 the office was abolished and the state printing was awarded to the lowest bidder with the hope of reducing the annual printing expenses, which then amounted to more than $270,000. This method, though the annual expenses were reduced to about $145,000, did not prove satisfactory. An act of May 1, 1854, re-established the office of state printer, which in 1872 was superseded by the office of superintendent of state printing, an elected officer. The superintendent of state printing was to receive a salary of $3,000 per annum. In 1874 this was reduced to $2,400. In 1885 the legislature passed an act which required school textbooks to be printed at the state printing office. In the same year the salary of the superintendent of state printing was raised to $3,000. In 1899, as the result of an investigation authorized by an act of March 20, 1897, the legislature passed a law which requires that all printing of the state officers, bureaus, commissions, etc., must be done at the state printing office at the expense of their respective funds or appropriations. Because of this law, only the expenses of maintenance and the cost of printing school-books are charged to the account of the superintendent of state printing, the other expenses being distributed among the respective offices, bureaus, commissions and institutions.

Table II, opposite page 381, shows the total printing expenditures, so far as it has been possible to segregate them.

5. Military Expenditures

According to the figures of State Controller A. B. Nye, the military expense for 1910 was 1.1 per cent of the total state expenditures, or $183,555.69, including printing which amounted to $3,554.00. The most important items in the ordinary expenses in the military department are: the salaries of the adjutant-general and his assistants, armory rents, care of armories; encampments; uniforms; target practice; and allowances to brigade headquarters. The expenses of the military department have been, as one would expect, the largest during times of war and strikes or insurrections. The expenses of the department, excluding printing, during certain years have been:

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1855	$4,115.21	1885	$73,137.60
1860	85,235.00	1890	176,523.04
1865	951,602.62	1895	350,958.95
1870	40,797.40	1900	163,696.67
1875	38,464.80	1905	174,595.47
1880	69,731.83	1910	180,011.63

The extraordinarily large expenses in 1865 ($951,602.62), in 1866 ($924,820.80), in 1867 ($702,698.06) were caused by the soldiers' relief and soldiers' bounty acts, of which we have spoken in an earlier chapter In 1895 the large expenditures ($350,958.95) were incurred by a strike of railroad employees, which necessitated the calling out of the National Guard of California.

6. State Prisons and Reformatories

How to reduce prison expenditures and make the penal institutions self-supporting has been a problem confronting the legislature since the organization of the state government. State Controller A. B. Nye in his biennial report for 1909–1910 says:

> In its two great prisons the state is feeding a gigantic white elephant, which every year grows bigger and demands more feed. Whatever they may be on the reformatory side, our prisons are industrial absurdities, made so through deliberately adopted policy, and they constitute a huge imposition on our tax-burdened people. While the prisons of other states are largely self-supporting, and in a few instances profitable, California's prisons have been reduced to such industrial impotence that free citizens are taxed a million dollars every two years to support convicts who ought to work out their own salvation.

An act of May 1, 1852, provided for the purchase of twenty acres of land, at a cost not exceeding $10,000, by the prison inspectors and for the erection of a prison building. To pay for the construction of the building, the state treasurer was to issue and sell 7 per cent 10-year bonds, to be redeemed from receipts derived from the sale of swamp and overflowed lands. The law did not specify the cost of the building, but from contemporary reports we may conclude that the cost was not to exceed $100,000. With utter disregard of public opinion, Governor Bigler entered into a million-dollar contract with M. Vassault. The governor's action aroused the legislature, which ordered an investigation and subsequently annulled Vassault's contract. In 1853 the legislature appropriated $135,000 to construct a state prison at

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San Quentin on the bay of San Francisco. The state treasurer was again authorized to issue and sell 7 per cent 10-year state bonds, the principal and interest to be paid from the proceeds of an *ad valorem* tax of four cents on the hundred dollars. The building was completed and the prisoners, heretofore farmed out to M. A. Vallejo and James M. Estell, were transferred in 1854 and placed under the direct charge of the board of prison directors, created by an act of May 7, 1855. This board consisted of three members, each receiving a salary of $3,500 annually. As a result of these changes the prison expenditures increased from $57,992.23 in 1855, to $411,246.14 in 1856, which was nearly one-third of the entire state expenditures. The new policy proved too expensive to be continued. An act of March 21, 1856, created an ex-officio board of prison commissioners consisting of the state controller, the state treasurer and the lieutenant-governor. This board was to lease the state prison grounds and property together with the convict labor at a cost to the state of not more than $15,000 per month. Subsequently the commissioners entered into a five-year contract with Mr. Estell at $10,000 per month. In return for this compensation he agreed to construct such walls, buildings and improvements as were found to be necessary for the convenience and safekeeping of the prisoners, and to provide the prisoners, without any expense to the state, with the necessary clothing, food and medical attendance. In 1857 the legislature abolished the board of prison directors created in 1855. In 1858, in response to numerous charges, accusing Estell of gross negligence of duty, mismanagement and the mistreatment of the prisoners, the legislature passed the act of February 26, which authorized the governor to take personal charge of the state prison. This he at once proceeded to do. The act also appropriated $75,000 to settle all claims of Estell. When the governor attempted to take charge of the prison, Estell *et al.* appealed to the courts, which held the act of February 26 to be a violation of contract and therefore void. An act of April 21, 1860, appointed the governor, the attorney-general, and the state treasurer as a committee to effect an equitable settlement with McCauley and Tevis, the assignees of Estell deceased. In order to annul the contract and

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secure direct control over its prisoners the state agreed to pay the claimants $275,000. It is because of this settlement that the prison expenditures for 1861 amounted to $381,622.36.

In regard to prison labor, section 6 of article x of the present constitution states that "after the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, co-partnership, company, or corporation, and the legislature shall, by law, provide for the working of convicts for the benefit of the state."

The increase in the prison and other penal expenditures since 1861 is shown by these figures, taken from Table IV, opposite page 397:

1865	$138,558.20	1890	$705,458.03
1870	174,896.64	1895	814,683.69
1875	187,909.22	1900	703,373.76
1880	338,880.36	1905	831,823.61
1885	440,571,58	1910	1,145,097.79

These figures include the expenditures of the two reform schools to which we shall refer presently.

Article x, section 1 of the constitution provides for a state board of prison directors consisting of five members, appointed by the governor by and with the advice and consent of the senate, for a term of ten years. Other sections of the same article empower the board to superintend the state prisons, appoint wardens and clerks, and determine the other necessary officers of the prisons.

In 1880, because of the crowded quarters at San Quentin, the legislature provided for the construction of a branch prison at Folsom. To give employment to prisoners, the state has established a jute mill[5] at San Quentin and a rock-crushing plant[6] at Folsom. The legislature of 1911 authorized and empowered the state board of prison directors[7] to employ state prisoners in the

[5] For the purchase of jute, the state legislature has established a $200,000 jute revolving fund. All money received from the sale of jute products must be paid into this fund so long as the money in the fund does not exceed $200,000.

[6] For the purchase of machinery the state legislature has established a $5,000 rock-crushing revolving fund for the state prison at Folsom.

[7] The state board of prison directors, in conjunction with the state board of control, must determine, subject to the approval of the governor, the quality, quantity and kind of material to be manufactured and must fix the prices of the goods as near as possible to the prevailing market price.

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production and manufacture of such articles, materials and supplies as might be needed by the state or any political subdivision thereof.

In its two prisons the state has invested large sums of money in buildings, land, furniture, fixtures and industrial plants. On June 30, 1910, the total value of the state's property at San Quentin, according to the report of the state controller, was $1,199,042.43, while the total value of the state's property at Folsom was $1,363,149.14.

A few words may be added in regard to the state reformatories. In 1860 the committee appointed during the previous year to investigate the matter of a state reform school reported that during the past ten years over three hundred persons below the age of twenty had been incarcerated in the state prison, and that the common council of the city of Marysville had offered the state, free of charge, a tract of one hundred acres, on which to construct a reform school. This offer was accepted, and $30,000 appropriated to erect a building. Twenty-five thousand dollars more was appropriated for the same purpose in the following year. In 1868, on the plea of economy, the project was abandoned and two commissioners, Messrs. J. M. Sharkey and Lorenzo Hubbard, were appointed to make arrangements with the authorities in charge of the industrial school at San Francisco, for the care, maintenance and instruction of the boys in the state reform school. No further steps were taken by the legislature to provide for the instruction of juvenile offenders until the passage of an act of March 11, 1889, which authorized the establishment of a school of industry at Ione and a school of reform at Whittier. The expenditures of these two institutions were in 1900, $192,498.04; in 1905, $168,608.51 and in 1910, $324,192.53.[8]

[8] An act of April 24, 1911, appoints the governor, lieutenant-governor and three other persons to be appointed by the governor, as a commission to purchase six hundred acres of land, suitable for agricultural and horticultural purposes, as a site for the California state reformatory. The reformatory is to be under the management of the state board of prison directors, who may employ the prisoners at all kinds of work but particularly at agriculture and horticulture. The board may allow the prisoners such a proportion of their earnings, above the cost of their maintenance, as it deems proper. The products of the reformatory shall, so far as possible, be supplied for state, county, municipal, school or other public use.

Any person between the ages of sixteen and thirty, convicted for the first time of a felony, may be sent to the reformatory, in which to be taught the elementary school courses.

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Deaf, Dumb, and Blind Institute[7]	University of California[8]
.....	.....
.....	.....
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.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
$10,000.00	.....
6,912.00	.....
20,285.93	.....
12,329.31	.....
11,500.00	.....
21,137.00	.....
40,000.00	$1,590.00
124,000.00	835.60
25,000.00	45,000.00
55,416.75	127,821.00
30,000.00	117,450.00
51,919.06	7,641.87
78,080.94	170,072.68
36,000.00	240,299.77
35,500.00	93,720.43
65,500.00	92,690.88
39,000.00	50,040.00
140,000.00	63,576.92
39,000.00	121,035.70
69,532.00	150,275.30
99,000.00	138,244.84
66,043.41	114,785.87
45,324.08	131,280.36
45,727.28	114,719.41
50,629.49	135,431.66
86,272.55	161,824.84
78,474.28	137,546.35
132,030.39	342,713.34
83,604.73	187,535.01
181,546.52	173,939.96
122,067.50	181,568.09
104,710.67	190,435.12
99,724.52	185,312.56
141,305.20	190,121.02
120,324.08	187,614.73
95,149.83	183,177.61
99,386.39	194,011.62
96,988.33	415,326.13
87,863.03	392,463.07
89,430.01	295,123.28
91,652.14	305,679.76
111,721.43	407,435.27
100,355.07	465,599.78
112,147.78	629,984.39
120,168.38	565,163.76
118,673.02	418,587.35
152,516.18	885,512.62
128,710.61	692,236.77
158,055.04	704,547.75
157,589.81	1,152,472.21

he Teachers' Institute.
gricultural and Mechanical Colleges.

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7. Educational Expenditures

In 1910, over forty per cent of the state's expenditures were for educational purposes. This includes the expenses for the common schools, the high schools, the normal schools, the deaf, dumb and blind institute, the University of California; the expenses of the textbook committee, of the superintendent of public instruction and the state board of education. Table III, opposite, shows the rapid growth of the educational expenditures. In 1860, the state expended for general educational purposes, exclusive of printing, $90,505.90; in 1870, $382,632.25; in 1880, $1,558,412.18; in 1890, $2,774,479.03; in 1900, $3,714,828.10 and in 1910, $5,646,084.62. The largest single item of expense is for the elementary public schools, for which were expended, in 1860, $84,955.90; in 1870, $365.010.45; in 1880, $1,516,123.83; in 1890, $2,655,088.66; in 1900, $3,497,316.24 and in 1910, $4,530,248.48.

One is justified in asking from what source the state receives sufficient funds to pay this large expenditure. The foundation of the original endowment of public education was article IX, section 2, of the constitution of 1849, which, with minor changes, became article IX, section 4 of the constitution of 1879 and reads:

> The proceeds of all lands that have been or may be granted by the United States to this state for the support of the common schools, which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new states under the act of Congress distributing the proceeds of the public lands among the several states of the union, approved A.D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may be granted, or may have been granted, by Congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all rents of the unsold lands and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Another section of the constitution requires that the proceeds from the poll tax shall be paid into the state school fund. In addition, the inheritance-tax act sets aside from the proceeds the first $250,000 collected annually for school purposes and the legislature from year to year has levied an *ad valorem* property tax.

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The first property tax for school purposes was levied in 1852, when the legislature levied a tax of five cents on every hundred dollars worth of taxable property. On account of the heavy taxation for other purposes, many who opposed the school tax advocated the sale of school lands and the charging of tuition to meet the public school expenditures. In 1854 a law was passed which required the payment of 15 per cent of the net proceeds of the poll tax into the state school fund. In 1855, the legislature passed the Ashley Bill, prohibiting the apportionment of public school funds to sectarian schools. In 1868 the school tax was increased to eight cents on the hundred dollars. If the reader will refer to Table III, opposite page 391, he will notice a very sudden increase in the expenditures for elementary schools from 1874 to 1875. The expenses for the former year were $498,509.20; for the latter, $1,215,247.04. This increase was the result of a law which required the state controller to estimate, between the tenth day of August and the first day of September of each year the amount of money which had to be raised to allow $7.00 for each school-census child between the ages of 5 and 17. His estimate had to be certified to the state board of equalization, which had to fix such an *ad valorem* rate of taxation as would raise the required amount. In practice, however, the state controller[9] included his estimates for public school purposes in his report to the governor, after which they were reported to the legislature and included in the tax-levy bill. By the act of 1874, the school tax became an automatic tax; that is, the statutes fixed the rate per child and the annual school census[10] furnished the other factor in the computation. In 1911, the average daily attendance was substituted for

[9] *Houghton* v. *Austin*, 47 Cal. 646.

[10] The school census had to be taken annually between the fifteenth and thirtieth day of April. In their house-to-house canvass the school census marshals had to ascertain the number of children below the age of 17; all those between the age of 5 and 17 were reported as of school age.

An act of 1911 has repealed the law requiring the taking of the school census and in place of it has substituted average daily attendance. Under the former law one teacher was assigned to every 70 pupils of school age; under the latter a teacher is assigned to every 35 units of average daily attendance. The unit of average daily attendance is defined as the quotient obtained by dividing the total number of days pupils were in attendance in the schools of the district, by the number of days school was actually taught in the district.

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the school census. Under the present law the state controller must transfer, on or before the first Monday in January and the first Monday in July of each year, such sums from the general fund to the state school fund as shall be equivalent to thirteen dollars per pupil in average daily attendance in the elementary schools during the preceding year as reported by the superintendent of public instruction.

The money in the state school fund is apportioned by the superintendent of public instruction as follows: $250 to every county, and city and county for every teacher assigned to it by the county superintendent according to law. The balance is apportioned among the various counties, and city and counties, in proportion to the average daily attendance.

High Schools

The state constitution, as ratified in 1879, authorized the legislature to establish high schools, but at the same time required that the entire revenue derived from the state school fund and the state school tax be applied exclusively to the support of primary and grammar schools. By an amendment ratified November 4, 1902, the legislature was empowered to levy a special state school tax for the support of high schools. An act of March 2, 1903, levied a tax of 1½ cents on the hundred dollars for the fifty-fifth and fifty-sixth fiscal years (1903–1905). The act furthermore provided that for the fifty-seventh fiscal year (1905–06), and thereafter, the state controller should compute the high school expenditures by allowing $15 per pupil in average daily attendance in all established high schools. This estimate he was required to certify to the state board of equalization, which had to fix the state rate of taxation for high school purposes. The money in the high school fund is apportioned by the superintendent of public instruction; one-third of the annual amount among the respective high schools irrespective of attendance, and two-thirds upon a pro rata basis of average daily attendance as shown by the county, or city and county superintendent, for the last preceding school year. Under the new revenue system,

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the state treasurer and controller are authorized to transfer the required amount from the general fund to the state high school fund.

Normal Schools and Other Expenses

The expenditures of the state normal schools and of the California Polytechnic School; the salaries and contingent expenses of the office of superintendent of public instruction, the expenses of the state board of education and textbook committee, depend entirely on the biennial general and special appropriations. The former includes the ordinary expenses, such as salaries and maintenance; the latter the extraordinary expenses, such as the cost of new buildings, etc.

At present, the state supports and maintains seven normal schools, the purpose of which, as declared by statute, is to educate and train teachers for the public schools of this state. The normal school at San Francisco was established in 1862; the one at San José in 1870, the one at Los Angeles in 1881, the one at Chico in 1887, the one in San Diego in 1897, the one at Santa Barbara in 1909, and the one at Fresno in 1911. Until 1890, the expenses per annum of all the normal schools exceeded $75,000 only during these years: 1871 ($98,756.81), 1873 $165,-382.42), 1881 ($133,211.26), 1882 ($115,689.93), and 1889 ($121,-382.75). Since 1890 the ordinary expenses have more than trebled, while in 1910, partly because of constructing a new building at San José, the total expenditures were $555,173.68.

Other General Educational Expenditures

A constitutional amendment, adopted in 1884, provided for a state board of education consisting of the governor, the superintendent of public instruction, and the principals of the state normal schools. In 1894 the president of the state university and the professor of pedagogy at the state university were made members of the board. The state board of education was authorized and empowered to compile, or cause to be compiled, and adopt a uniform series of textbooks for use in the common schools. In 1903 the legislature created a standing committee on textbooks. This is composed of the governor, superintendent of public instruction, and one other member of the state board of edu-

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cation. Subject to the approval of the state board of education, this committee has the power to revise in whole or in part the textbooks used in the common schools; to compile or cause to be compiled, under its direction, and to manufacture new textbooks; to purchase or hire plates, maps, and engravings of copyrighted matter and to contract for or lease copyrights for the purpose of being used in compiling, printing and publishing such books.[11] All the money received from the sale of textbooks, except such an amount as is needed to pay royalties, is kept by the state treasurer as a separate and distinct fund—the state school book fund—which is drawn upon by the superintendent of state printing to pay for all material, labor, and other expenses of printing and publishing the school textbooks.

The annual expenditures of the office of the superintendent of public instruction and the state board of education are shown in the table opposite page 391.

Deaf, Dumb and Blind Institute

The figures showing the expenses of the deaf, dumb and blind asylum include the expenditures of the Industrial Home for the Adult Blind. Upon separating the expense of the two institutions, it is discovered that those of the former, for the last ten years, were (inclusive of printing):

1900–01	$65,241.28	1905–06	$73,033.58
1901–02	68,235.54	1906–07	76,347.37
1902–03	63,299.06	1907–08	72,085.74
1903–04	68,263.84	1908–09	72,460.45
1904–05	70,457.16	1909–10	80,559.50

The Institution for the Deaf and Blind, located in Berkeley, is by law declared to be a part of the educational system of the state, but derives no revenue from the public-school fund. It is supported, for the most part, by the biennial appropriations of the legislature. All pupils, except non-residents who pay $85 per quarter, are admitted free of charge and maintained, including clothing if necessary, at the expense of the state.

The Industrial Home for the Adult Blind, located in Oakland, is not a part of the educational system of the state. At

[11] Section 1874 of Political Code of California.

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this institution the state endeavors to instruct such adult blind as are admitted, in some trade or trades, in order that they may contribute toward their own support. After having learned a trade, those who so desire may remain at the home and pursue it, but must pay the state, through the board of directors, the cost of maintaining them.

The University of California

The University of California occupies, in regard to its finances, a semi-independent position as compared with other state institutions. The university's endowment fund and a large part of its income is under the exclusive control of the board of regents. Many receipts of the university, those from fees, gifts, bequests and miscellaneous sources, are not paid into the state treasury. State appropriations for the benefit of the university are exempt from the jurisdiction of the state board of control and are frequently drawn in advance of use as soon as they become available.[12]

Table III, opposite page 391, shows that the state expenditures for the university have increased very rapidly since 1895. Until 1887, the receipts of this institution came entirely from the revenue derived from the endowment fund, from the biennial appropriations of the legislature, from the fees paid by students, and from gifts and bequests from friends. We are concerned here only with the receipts from the state. In order not to oblige the authorities of the state university to appear biennially before the legislature and ask for funds, and to place it on a more independent footing, the legislature of 1887 passed the Vrooman Act which levied an annual *ad valorem* tax of one cent on the hundred dollars for the support of the university. In 1897 the annual *ad valorem* tax was raised to two cents, and in 1909 to three cents. An act of April 25, 1911, passed because of the change in the state revenue system, directs the state treasurer to transfer for the sixty-third fiscal year (1911–12) from the general fund to the state university fund, an amount equal to the receipts under the three-cent tax for 1910–11, plus an amount equivalent to 7 per cent of those receipts. The same

[12] *Report of the State Controller*, 1908–10, p. 38.

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)LENT AND PENAL EXPENDITURES
.IFORNIA, 1850–1910

	Hospitals	Insane Asylums and Sonoma State Home	Prison and other Penal Expenses
.	.....	.....	.....
.	$8,387.30	.....	$200.00
'	91,439.75	.....	32,063.67
:	212,946.42	.....	109,317.45
)	144,579.72	81,314.99	194,587.76
)	243,806.94	147,434.88	57,992.23
.	56,609.97	87,083.66	411,246.14
.	5,760.88	81,983.64	113,192.66
.	10,224.46	90,106.31	171,372.30
)	4,735.39	135,001.98	90,898.74
)	610.87	84,666.02	24,402.74
.	3,248.26	83,644.43	381,622.36
)	1,197.90	40,555.57	69,065.81
)	3,838.20	170,230.78	147,092.77
)	40,722.21	202,037.27	95,631.67
)	8,364.85	172,430.65	138,558.20
)	13,911.30	123,944.19	128,788.80
)	14,061.45	171,437.35	80,824.30
)	15,796.18	176,744.68	140,506.75
)	19,894.62	127,783.62	124,741.70
)	81,013.61	191,408.67	174,896.64
)	33,973.30	154,800.00	167,325.16
)	1,755.91	222,156.71	220,927.29
)	5,242.97	302,529.89	133,722.73
5	.....	474,687.07	178,174.96
7	.....	551,670.20	187,909.22
7	.....	775,877.85	244,179.85
1	.....	614,619.78	279,368.41
1	.....	389,593.35	306,869.24
3	.....	227,529.15	248,562.44
)	.....	319,905.99	338,880.36
2	.....	390,204.56	568,688.25
)	.....	457,975.00	348,192.63
2	.....	415,374.06	269,828.50
7	.....	515,899.46	182,969.82
4	.....	486,432.74	440,571.58
5	.....	533,865.39	284,897.53
3	.....	570,725.79	390,336.65
9	.....	557,464.68	553,390.49
4	.....	888,963.66	525,856.33
3	.....	977,451.88	705,458.03
9	.....	981,154.35	870,729.38
3	.....	1,087,004.49	670,908.74
5	.....	869,168.97	809,111.84
4	.....	954,538.84	734,259.62
7	.....	927,032.72	814,683.69
4	.....	749,077.86	650,676.23
3	.....	753,690.49	691,144.98
3	.....	788,673.92	731,958.70
3	.....	846,866.18	693,132.78
2	.....	932,461.32	703,373.76
6	.....	946,634.82	670,457.11
3	.....	985,663.37	635,370.39
2	.....	991,773.60	844,395.45
9	.....	1,086,217.04	757,946.55
5	.....	1,219,764.18	831,823.61
4	.....	1,301,100.25	903,567.50
4	.....	1,302,735.85	917,301.63
6	.....	1,586,029.37	1,071,380.42
6	.....	2,170,932.86	1,055,835.92
8	.....	2,205,883.84	1,145,097.79

charitable institutions. [2] Includes back payments.
Corrections and Women's Relief Corps Home.

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statute provides that for the sixty-fourth, sixty-fifth and sixty-sixth fiscal years, the amounts transferred from the general to the state university fund are to be 7 per cent in excess of the amounts transferred for the immediate preceeding fiscal year. In addition to the *ad valorem* tax, the state, by an act of 1893, has guaranteed the annual payment of $49,845, this being the interest on the bonds of 1873, held in trust by the state treasurer for the benefit of the university, and since 1901 has appropriated annually $100,000 for the support and maintenance of the University of California.

In 1895 the state contributed toward the support of the university $187,614.73; in 1900, $295,123.28; in 1905, $565,163.76; and in 1910, $1,152,472.21.

Charitable and Benevolent Expenditures

During 1910 California expended over $2,850,000, or about 17 per cent of the total state expenditures, for the support and maintenance of state hospitals, formerly called insane asylums, and for charitable purposes. Table IV, opposite, shows the annual disbursements for these purposes.

California, instead of maintaining state orphan asylums, subsidizes, so to speak, local institutions, both public and private, which comply with certain legal requirements.[13] To institutions meeting the requirements the state pays: (1), $100 per annum toward the support of each orphan; (2), $75 per annum toward the support of each half-orphan or abandoned child, and (3), $12.50 per month for each foundling until 18 months of age, after which age the law classifies the child as an orphan. The state expenditures for the support of orphans reached the highest

[13] Conditions under which aid is granted:

1. The institution seeking state aid must have at least 20 inmates.
2. No child over 14 years of age is considered as a minor orphan, half-orphan or abandoned child.
3. No child, for whose specific support the institution receives $10 per month, is considered as a minor orphan, half-orphan or abandoned child.
4. An institution receiving state aid must keep its books as prescribed by statute. The board of control or its representative has the right to examine them at any time.
5. Every claim for aid must be presented and audited by the board of control.

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point in 1903, when they amounted to $502,863.35. Since then the claims of different institutions have been more carefully examined, with the result that the expenditures have been decreasing and in 1910 were $403,922.11.[14]

Column two in Table IV, opposite page 397, designated "miscellaneous expenditures," includes: the money expended in 1852, 1853 and 1854 for the relief of overland immigrants; the expenditure for the support of aged persons in indigent circumstances; the expenses for the support of the woman's relief corps home, and the expenses of the state board of charities and corrections.

A law passed in 1883 granted annually $100 per person to every charitable institution supporting and maintaining aged poor. In construing the statute the state controller refused to pay any claims other than those of private institutions. His interpretation of the statute was found to be erroneous by the court, which held, in the case of the *City and County of San Francisco* v. *Dunn* (69 Cal. 73), that the law applied to counties, city and county, and cities or towns maintaining institutions for the support of the aged poor, as well as to private institutions. In a later case[15] the court went a step further and held that claims of county, city and county, etc., were valid though a system of outdoor relief was employed. As a result of these decisions, the expenditures for the support of the aged poor increased from $182,817.84 in 1887 to $557,606.93 in 1895. Because of this large increase in the expenditures State Controller E. P. Colgan recommended, in 1894, that the law be repealed and that the expenses for supporting the aged poor be borne by the counties. This the legislature did in 1895.

The state board of charities and correction was created by an act of March 25, 1903. It is composed of six members appointed by the governor for a term of twelve years. The expenses of the board, including the salary of the secretary, who shall not receive more than $2,400, are limited to $6,000. Only once since the creation of the board have the expenses exceeded the statutory limit.

[14] On September 30, 1909, the state was contributing toward the support of 8,222 dependent children.

[15] *Yolo County* v. *Dunn*, 77 Cal. 133.

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By an act of March 11, 1897, the state accepted the property of the Veteran's Home Association, at Yountville, Napa County. An act of March 20, 1899, appropriated $75 per annum for each inmate of the home. An act of March 12, 1901, appropriated $75 for each inmate, but limited the total payment for any one year to $55,000. From 1897 to 1900 the expenses of the home are not segregated. In 1901, the expenses, including the cost of improvements, amounted to $104,746.64; in 1906, to $153,750.48 and in 1910, to $240,278.91.

State Hospitals

During the first few years of the state's existence, large sums were expended for the erection, support and maintenance of state hospitals. An act of April 9, 1850, appropriated $50,000 for the erection of a state marine hospital in San Francisco. An act of April 15, 1851, provided for the construction of a state hospital at Sacramento, and an act of April 30, for the construction of a state hospital at Stockton. An act of May 15, 1853, appropriated $100,000 to complete and maintain the marine hospital. Into the state hospital fund, established during the same year, were to be paid the receipts from license taxes on auctioneers, gaming, billiard tables, bowling alleys, hawkers, pedlers, and all fines collected as penalties for the violation of the laws imposing the various license taxes. One-half of the money paid into the state hospital fund was to be paid to the counties for the support of their indigent sick. A law passed in 1855 required that all the receipts from the passenger commutation tax be used for the support of the indigent sick. Because of the necessity for curtailing state expenditures the state controller in 1854 recommended and urged the abandonment of the state marine hospital. To carry out the controller's proposal the legislature passed an act appropriating $100,000 to settle any claims against the hospital and provided for the disposition of the property. After this the care of the aged poor was intrusted, for the most part, to the various counties.

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Insane Asylums

The expenses of the insane asylums, now called state hospitals, includes the expenses for the Home for the Feeble-Minded, the cost of transporting the insane, the expenses for the hospital for the criminal insane at Folsom, and the salaries and expenses of the lunacy commission, composed of the governor, the secretary of state, the attorney-general, the secretary of the state board of health, and the general superintendent of state hospitals.

The Stockton insane asylum was established in 1853, the Napa asylum in 1872, the Agnews asylum in 1885, the Mendocino and Southern California asylums in 1889. These are supported by biennial appropriations. The extraordinary increase in the expenses for 1909–1910 was caused by the reconstruction of the Agnews asylum, destroyed by an earthquake in 1906. For this purpose there was expended in 1908–1909, $552,190.00 and in 1909–1910, $356,323.82. In the latter year the population of the state hospitals was 7,475. The state controller in his report for 1909–10 states that the conditions tending to increase the hospital expenditures are better care of the inmates, partial substitution of the cottage system for the ward buildings, the construction of special receiving and treatment buildings, and the increased cost of food and other supplies.

9. *Miscellaneous Expenditures*

Table V, opposite, shows only the expenditures of the more important miscellaneous bureaus, departments and commissions. The table illustrates, in some degree, to what extent the state has assumed functions which are quasi-social in their character. This would appear more clearly had it not been necessary to merge certain expenditures, and show only the totals. Thus, under agricultural expenses, are included the state's contributions to the state and local agricultural societies, the expenses of the dairy bureau, of the horticultural commission, of the board of silk culture, of the veterinary board, and of the viticultural commissioners. The State Agricultural Society was incorporated in 1854. In 1861 the state began to appropriate money for the support of local societies, as well as for the state

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organization. This policy was pursued until 1895, when Governor Budd vetoed all appropriations for district societies. As a result of this action the expenses were reduced from $118,271.46 in 1895 to $21,000 in 1896. Since then, the activities of the state society have been extended and the expenses increased correspondingly. The state dairy bureau was created by an act of March 4, 1897. The members of the bureau receive no salary, but are allowed to employ such assistants as are necessary. During 1910, the expenses of the bureau were $11,475.25. An act of March 13, 1883, created a state board of horticulture. In 1903, the law was amended and a single commissioner was substituted for the board. The commissioner receives a salary of $3,000 per annum. The expenses of this department have increased very rapidly. In 1905 they were $15,278.86; in 1910, $26,773.00. An act of March 15, 1883, created a non-salaried board to investigate and encourage silk culture. The contingent expenses of the board only once exceeded $5,000. In 1891, the law creating the board was repealed. An act of March 19, 1899, created the office of state veterinarian. The expenses of this office in 1905 were $3,040.37; in 1910, $25,950.62. An act of April 15, 1880, created a non-salaried board of state viticultural commissioners. In 1895, the work of the commission was transferred to the University of California, and the expenses from then on are included in the disbursements of the university.

The expenditures for river and harbor improvements have increased over four hundred per cent within the last ten years. The expenses of the harbor improvements constitute by far the greater part of the expenses in column two and are, as stated in a former chapter, paid from the receipts collected by the state board of harbor commissioners. A minor item of the expenditures included in the figures are the expenses incurred by the investigation of the water resources of California. An act of March 16, 1903, empowered the state board of examiners, now the state board of control, to enter into contracts with the director of the United States Geological Survey for the investigation of the water resources of California. The expenses of the state are not to exceed those incurred by the federal government. The expenses incurred for this purpose have averaged

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about $30,000 per annum. For the improvements of rivers the state expended in 1908, $43,439.20; in 1909, $53,813.09 and in 1910, $155,027.24.

By an act of April 2, 1866, California accepted the grant of the Yosemite Valley and the Mariposa Grove from the United States government. This park was re-granted to the federal government by an act of March 3, 1905. An act of March 3, 1885, created a non-salaried state board of forestry, composed of three members. An act of March 18, 1905, provided for a state board of forestry, consisting of the governor, the secretary of state, the attorney-general, and a state forester appointed by the governor. The salary of the state forester was fixed at $2,400 per annum and that of his two assistants at $1,200. An act of March 16, 1901, provided for the appointment of a commission to purchase land for a redwood park. Subsequently the state became the owner of 3,800 acres of redwood forest in Santa Cruz County, which now is valued at $500,000. In the table we have merged the expenditures for parks and those of the state board of forestry.

The state board of health was created by an act of 1870. The large increase in the expenditures of the board are caused, in the main, by the increase in the contingent expenses. These in 1907 were $3,157.64; in 1908, $24,154.22; in 1909, $34,716.16 and in 1910, $42,184.63. In 1908 and 1909 the expenses were increased because of the campaign against the bubonic plague.

An act of March 30, 1878, created a state bank commission composed of three members, each of whom received $3,000 per annum. By an amendment of March 10, 1887, the salaries were increased to $3,600. In 1909 the law was completely revised and in place of three commissioners we now have a superintendent of banks, appointed for an indeterminate term by the governor. The duties of the banking department have been increased very much, but, the expenses of it are paid by a pro rata assessment on the banks. Thus this department is not a direct charge upon the taxpayers of the state.

An act of March 23, 1893, created a board of building and loan commissioners, empowered to issue licenses to building and loan associations, to investigate the affairs of these societies and

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require reports from them. The expenses of the commissioners are paid by a pro rata assessment on the associations.

Reference has been made, in an earlier chapter, to the code commission created by act of March 28, 1868. The expenses of this commission and its successors are shown in the table. An act of March 28, 1895, created a code commission composed of three members with an annual salary of $4,000 each, and a secretary receiving $200 per month. It was the duty of the commissioners to submit to each legislature the amendments to the codes necessary to keep them in accord with court decisions and previous legislation. In 1900 the expenses of the commission were over $16,000; in 1905, less than $5,000. This saving was affected by abolishing the commission consisting of three members, and substituting a single commissioner who receives a salary of $3,600 per annum.

An act of March 23, 1893, provided for the appointment of a debris commissioner whose duty it was to devise methods to protect farming lands from floods and inundations caused by the filling of the natural river channels by the debris washed down from the mountains by hydraulic mining. In 1907 the office was abolished, and the work assigned to the department of engineering. Expenditures for 1908, 1909 and 1910, shown in the table, were incurred by the department of engineering for the construction of works to restrain debris, etc.

The department of engineering was created by an act of March 29, 1878, abolished in 1889, and re-established in 1907. To it has been assigned the work formerly in charge of the commissioner of public works, the debris commissioner, and the bureau of highways. The expenses of the bureau of highways are included in the figures given in the table. The $18,000,000 highway bond act assigns to this department the duty of selecting routes, of drawing plans, of acquiring rights of way and materials, and of supervising the construction of the state highways.

An act of April 2, 1870, authorized the appointment of three non-salaried fish and game commissioners. The large increase in the expenditures of the commission have been made possible by its increased receipts from hunting license. Within the last

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few years the work of the commission has been greatly extended.

The office of insurance commission was created by an act of March 26, 1868. Our figures in regard to the expenditures of this office are misleading, in that they include only the statutory salaries and contingent expenses. For 1907, the expenses for printing, rent, etc., were $7,085.47; in 1908, $26,601.54; in 1909, $26,736.44 and in 1910, $27,770.59. This extraordinary large increase was partly caused by the San Francisco earthquake and fire in 1906.

The office of commissioner of labor was created by an act of March 3, 1883. The large expenses for 1909 ($13,966.16) and for 1910 ($41,576.63) were caused primarily by a special investigation—Japanese immigration, labor and land holdings—conducted by the bureau.

The office of state geologist was abolished by an act of March 27, 1874, which required the incumbent to deliver all manuscripts and material to the University of California. The last item of expense because of this office appeared in 1876. An act of April 16, 1880, established a mining bureau, whose functions are entirely different from that of a state geologist.

An act of April 3, 1876, provided for the appointment of three transportation commissioners, each to receive a salary of $3,000 per annum. In 1878 these were superseded by a commissioner of transportation who in 1880 was superseded by three railroad commissioners, elected by the people. The constitutional amendment ratified in 1911 provides for five railroad commissioners to be appointed by the governor. Under the new law (effective March 23, 1912) the railroad commission has jurisdiction not only over railroads but over all public service corporations including pipe lines and warehouses. It has power to regulate rates and service, to control the issuance of stocks and bonds; to issue certificates of public convenience and necessity. During the last three years, the expenses of the commission have been increasing rapidly, primarily because of its zealous and successful efforts in protecting the interests of the general public, as well as those of the public service corporations.

In the preceding pages mention has been made only of the most important state expenditures. From a study of the tables,

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remembering the few explanatory remarks, one may obtain a general conception of the activities of the state government, of the amounts expended for the different departments of the government and of the purposes for which the taxpayer makes annual contributions.

The total amount of revenue collected and expended by the state of California is shown in the following table:

Year	Receipts	Expenditures	Deficit	Surplus
1850—	$3,156.27	$348,165.25	$345,008.98	.....
1851—	330,796.45	585,702.83	254,906.38	.....
1852—	366,825.07	925,694.56	558,869.49	.....
1853—	454,185.85	1,269,149.13	814,963.28	.....
1854—	1,022,647.32	1,204,757.96	182,110.64	.....
1855—	1,155,537.10	1,337,496.64	181,959.54	.....
1856—	723,289.83	1,368,684.81	645,394.98	.....
1857—	799,795.90	719,103.50	.....	80,692.40
1858—	1,215,128.61	992,553.35	.....	222,575.26
1859—	1,184,221.79	1,109,143.20	.....	75,078,59
1860—	1,198,581.81	1,165,717.95	.....	32,863.86
1861—	1,292,718.63	1,462,690.81	169,972.18	.....
1862—	1,105,630.79	1,146,744.65	41,113.86	.....
1863—	1,626,278.58	2,097,268.29	470,989.71	.....
1864—	2,096,437.83	2,093,228.18	.....	3,209.65
1865—	2,594,365.29	2,603,065.08	8,699.79	.....
1866—	2,970,736.48	3,136,770.03	166,033.55	.....
1867—	3,595,232.06	2,954,233.79	.....	640,998.27
1868—	2,801,920.25	2,977,456.43	175,536.18	.....
1869—	2,918,211.09	3,180,725.76	262,514.67	.....
1870—	3,508,163.91	3,814,037.22	305,873.31	.....
1871—	3,329,984.99	2,915,458.60	.....	414,526.39
1872—	3,107,816.17	3,062,119.34	.....	45,696.83
1873—	3,792,615.99	3,524,093.24	.....	268,522.75
1874—	4,093,774.93	3,777,042.99	.....	316,731.94
1875—	4,812,926.20	4,769,816.83	.....	43,109.37
1876—	3,651,895.39	3,961,964.18	310,068.79	.....
1877—	4,549,258.30	3,785,111.35	.....	764,146.95
1878—	3,913,494.45	3,795,480.53	.....	118,013.92
1879—	3,543,610.77	3,544,361.63	750.86	.....
1880—	3,682,698.04	4,019,657.24	336,959.20	.....
1881—	4,585,313.66	5,218,631.56	633,317.90	.....
1882—	4,532,394.41	4,252,102.13	.....	280,292.28
1883—	4,224,825.77	4,110,515.08	.....	114,310.69
1884—	4,492,125.97	4,127,768.20	.....	364,357.77
1885—	4,363,235.59	5,425,988.40	1,062,752.81	.....
1886—	6,476,230.40	5,787,612.96	.....	688,617.44
1887—	5,449,261.53	5,240,379.20	.....	208,882.33

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Year	Receipts	Expenditures	Deficit	Surplus
1888—	7,050,420.17	6,599,066.07	.....	451,354.10
1889—	7,517,708.54	7,224,492.69	.....	293,215.85
1890—	9,590,572.78	7,946,616.45	.....	1,643,956.33
1891—	9,141,999.95	7,924,772.09	.....	1,217,227.86
1892—	7,177,132.32	7,764,738.15	587,605.83	.....
1893—	7,204,992.57	9,025,243.02	1,820,250.45	.....
1894—	9,322,340.52	7,997,243.96	.....	1,325,096.56
1895—	9,017,999.71	9,087,673.68	69,673.97	.....
1896—	10,349,966.64	8,062,836.94	.....	2,287,129.70
1897—	7,592,453.23	8,032,885.84	440,432.61	.....
1898—	7,736,880.57	8,123,503.75	386,623.18	.....
1899—	7,706,330.74	8,410,882.61	704,551.87	.....
1900—	10,858,917.26	9,229,321.55	.....	1,629,595.71
1901—	9,541,359.98	9,487,378.47	.....	53,981.51
1902—	9,772,686.76	9,643,013.07	.....	129,673.69
1903—	8,960,358.26	10,446,773.36	1,486,415.10	.....
1904—	13,105,599.43	11,993,171.78	.....	1,112,427.65
1905—	13,598,510.98	13,144,487.46	.....	454,023.52
1906—	13,235,236.62	11,945,862.73	.....	1,289,373.89
1907—	14,638,940.41	14,154,987.78	.....	483,952.63
1908—	15,517,625.12	15,489,780.28	.....	27,844.84
1909—	17,099,442.92	16,841,666.11	.....	257,776.81
1910—	18,487,881.72	18,753,720.31	265,838.59	.....

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IN
ECONOMICS

Vol. 3, No. 3, pp. 409-447 September 27, 1913

JURISDICTIONAL DISPUTES RESULTING FROM STRUCTURAL DIFFERENCES IN AMERICAN TRADE UNIONS

BY
SOLOMON BLUM

UNIVERSITY OF CALIFORNIA PRESS
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JURISDICTIONAL DISPUTES RESULTING FROM STRUCTURAL DIFFERENCES IN AMERICAN TRADE UNIONS

BY

SOLOMON BLUM

A dissertation submitted to the Board of University Studies of the Johns Hopkins University, in conformity with the requirements for the degree of Doctor of Philosophy.

1913

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BY
SOLOMON BLUM

The almost universal demand of American trade-unions for the union shop, popularly known as the closed shop, takes three forms: first, that only union men of good standing shall be employed and that union conditions of work shall prevail; second, that materials made by union men and under union conditions shall be used; third, that members of the union recognized as the legitimate union for the specified work shall be employed.

The third of these demands involves what are known throughout the trade-union world as jurisdictional or demarcation disputes. These are conflicts between the different unions over the kinds of work to be allotted to each. They are, in other words, the attempt of organized labor to find the "fair" man or the "fair" union that is to be given the particular piece of work. These disputes are comparatively little known outside of the trade-union world and among the employers of union labor. In fact, the trade-unionist himself does not refer to them often outside of conventions and trade-union meetings and conferences with employers.

The employer knows of these internecine disputes at times to his sorrow, at other times to his benefit. The general public, its attention riveted to the better known phases of the union shop question, has either never heard of jurisdictional disputes, or if it has, does not interest itself in what appears to be a "Kilkenny". This lack of knowledge does not betoken lack of import-

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ance. There is scarcely a trade-union of size or importance in the United States which has not had one or more jurisdictional disputes—many of them serious and at times involving the life of the union itself.

For the last decade their adjustment has been one of the chief concerns of the Executive Council of the American Federation of Labor, to say nothing of the numerous conference committees of the individual unions, which with varying success have been considering these questions. Furthermore, with no question has organized labor up to this time been so helpless.

Jurisdictional disputes result from: (1) Similarity of craft technique, which renders accurate demarcation between crafts difficult. (2) Changes in the technique of industry, which transforms the skill requirements of a particular kind of work and thus brings a new group of workers into competition for it. (3) The introduction of new commodities, which either partially or entirely supersede the older commodity. (4) Political, social and geographical divisions among workers in the same craft, resulting in the formation of dual unions. (5) Personal ambition and jealousy of leaders of different factions. (6) Structural differences of unions, which may be the result of any one, or any combination, of the foregoing causes of dispute.

It is my purpose to discuss jurisdictional disputes arising from structural differences of the unions. These disputes center around the industrial union.

The completed and perfected form of the industrial union gathers into one union, not only all the subdivisions of a craft, but all the trades directly associated with the industry. Thus, the Brewery Workmen, not content with the control of the men directly employed in the process of beer-brewing, have organized the bottlers, coopers, painters, teamsters, freight-handlers, engineers and firemen, in short, every manual workman employed in or about the brewery. For years the Longshoremen, an industrial union, made no attempt to extend its jurisdiction beyond actual longshore work, but in 1902 this union extended its jurisdiction into that claimed by the Seamen. The Seamen themselves have conflicted with the Hotel and Restaurant Employees in their demand for jurisdiction over cooks and stewards on

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shipboard. The United Mineworkers insist on controlling the engineers and firemen.

It is simple enough to recognize the above-mentioned unions as industrial, but what is to be said of the numerous unions which, though not completely industrial, show industrial tendencies? It is a most unnatural distinction to call the United Mine Workers an industrial union because it has affiliated the engineers and firemen, and on the other hand to call the Butcher Workmen, Carriage and Wagon Workmen, Wood Workers, Piano and Organ Workmen, etc., trade or craft unions because they have not affiliated all the subsidiary trades. The Butcher Workmen as a type union is certainly closer in structure to the Brewery Workmen than it is to the Bricklayers and Masons. It is necessary, therefore, to classify this great and growing group of unions as semi-industrial rather than as craft unions.

Furthermore there are certain unions, which in their main design are properly considered craft unions, which have shown and continue to show industrial tendencies. Thus when the United Brotherhood of Carpenters and Joiners attempts to control sash and trim work made in shops by machinery, it is unquestionably changing the boundaries of the carpenters' and joiners' trades. The International Typographical Union after the introduction of the linotype succeeded in affiliating the machine tenders of the linotype, after a struggle with the Machinists' Union. Certainly from purely craft considerations the machine tenders in printing shops belonged to the Machinists' Union.

Enough has been said to indicate that there are three types of unions which show a tendency to industrialization:

(1) The perfected type, which attempts to include all those working directly upon the product, together with the subsidiary trades.

(2) The "trade amalgamation," which attempts to organize into one union all or most of the crafts making up the trade, but not all the subsidiary crafts, e.g., Carriage and Wagon Workers, Piano and Organ Workers, and Car Builders.

(3) The trade or craft union which shows industrial tendencies, e.g., Carpenters and Joiners.

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We will first consider the disputes caused by the perfected type. It will be noted that, with the exception of the dispute between the Seamen and the Longshoremen, the conflicts have been between the industrial and the craft union.

In the controversy between the International Longshoremen, Marine and Transport Workers Association and the International Seamen's Union of America we have an illustration of two industrial unions fighting each other. The Seamen defined their jurisdiction as follows: "The word Seamen shall be interpreted to include all unions whose members make a living by following the sea, lake, or river in any capacity in steam or sailing vessels."[1] Prior to July 1, 1902, the title of the Longshoremen's Association was International Longshoremen's Association. It was then changed to the International Longshoremen, Marine and Transport Workers Association.[2]

This change of name marked the culmination of the policy of expansion of this association. We can trace with comparative ease the increasing scope of the union. In 1899 the craft included lumber handlers, ore trimmers, coal unloaders, grain handlers, hoisters and engineers, freight handlers and miscellaneous longshore workers.[3]

It will be noted that while including all longshore work, and though highly industralized, there is no trade included which conflicts with other unions except engineers. In 1900, not taking into account some minor subdivisions of crafts already affiliated,[4] there was no general expansion of jurisdiction. In the following year we have the first definite intimation of the policy of expansion of the Longshoremen. "There are to-day several organizations of maritime workers, namely: The International Seamen's Union, the Marine Engineers' and Pilots' Association. While

[1] Art. 1., *Seamen's Constitution*, 1902.

It was recognized by the Seamen that Master Pilots and Marine Engineers could not be "trade unionists in the accepted sense", but the Seamen desired them to be on terms of mutual helpfulness.—*Seventh Convention Seamen*, 1902, pp. 22, 23.

[2] *Convention of Longshoremen*, 1902, p. 152.

[3] *Convention of Longshoremen*, 1899, pp. 16, 17, 18.

[4] *Convention of Longshoremen*, 1900, pp. 32–35. Hard and soft coal trimmers were separately organized and marine firemen were admitted. The admission of the latter caused the first dispute with the seamen. *Convention of Longshoremen*, 1900, p. 74. The protest of the seamen came to nothing.

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these organizations of separate interests may be beneficial as a start along the lines of organizations, yet there is danger ahead by the lack of uniformity of the interests and the division of these branches into separate bodies." And again: "Regarding the future extension of our organization it is essential that we look upon it in a practical businesslike manner. It is necessary that we reach out and gather allied interests, so that instead of several organizations struggling for better things there ought to be but one concentrated body under whose direction Maritime Workers shall operate. Let us be wide awake and unite all branches of marine employees and turn to good account the energy previously wasted in strife and persecution."[5] At the following convention the name of the organization was changed to the International Longshoremen, Marine and Transport Workers' Association, thus assuming most of the functions of the Seamen's Union.[6] The secretary puts the case forcibly: "I have always advocated expansion of our interests in every convention that our association has held. I maintained the necessity of organizing every man that was engaged in our different vocations. My advice was carried out and the jurisdiction extended until to-day we stand as the most progressive association in the world whose principles and objects declare us to be an 'Industrial Association.' We are the center of maritime commerce. As a business proposition we ought to continue the work of the organization along the lines laid down by preceding conventions."[7]

The convention of the American Federation of Labor in 1902 and 1903 refused to sanction the change in name. In referring to the change the executive council spoke of it as "an act of bad faith—calculated to mislead the public."[8] The Longshoremen continued to organize seamen under their jurisdiction. The committee on resolutions of the A. F. L. in the next con-

[5] *Convention of Longshoremen*, 1901, p. 49.

[6] *Convention of Longshoremen*, 1902, p. 152.

[7] *Convention of Longshoremen*, 1903, p. 90. At this convention (p. 198) President Keefe suggested a federation of maritime interests wherever feasible and especially among the workers on the Great Lakes. "To meet annually or as often as the occasion demands for the consideration of such matters as concern all the workers and organizations in which we have a mutual or common interest."

[8] *Proceedings American Federation of Labor*, 1903, p. 251.

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vention in considering the proposition held that technically the Seamen's position was impregnable but that as the Longshoremen had developed a strong organization of marine and transport workers they should hold them within their jurisdiction. A minority report was presented and the convention refused to uphold either the majority or the minority and the decision was left open till the following convention.[9] The Longshoremen decided to give up the objectionable title, provided that is was "not to be construed that the change means giving up of any local of members of the Longshoremen." Any jurisdictional trouble which should arise in the future was to be settled by the officers of the two organizations.[10]

The conflict of the United Mine Workers of America and the Coal Hoisting Engineers is a typical dispute between an industrial and a craft union. The United Mine Workers claim jurisdiction over all persons working at or around the mines. This naturally includes the Coal Hoisting Engineers. The engineers, owing to their strategic importance and to the fact that they have always considered themselves a separate craft, have demanded an organization distinct from the United Mine Workers. With the exception of this organization the United Mine Workers have been in the main free from disputes of this sort. The other crafts working at the mines have recognized that one agreement-making body can far better preserve the interests of all concerned than twenty or more organizations each representing a small body of men and subject to the vicissitudes to which all small bodies are liable in dealing with large employers. In 1900 the first intimation of conflict between the two organizations is noted. It came in the form of a resolution that a committee of the two organizations should reach some understanding in relation to transfer cards and other matters that might come up in conference.[11] At this time it was realized

[9] Andrew Furuseth, President of the Seamen's Union, asserted that trade autonomy should be observed. He ignored the industrial character of the Seamen's Union. Walter Macarthur of the Seamen's Union stated that the line of demarcation was tacitly understood to be the line that separates the vessel from the dock, in other words, the line between land and water. See *Proceedings American Federation of Labor*, 1904, pp. 244–259.

[10] *Proceedings American Federation of Labor*, 1908, p. 255.

[11] *Convention Proceedings Coal Hoisting Engineers*, 1900, pp. 13, 16, 17.

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that the connection between the two unions was very close, and the Coal Hoisting Engineers presented a draft of an agreement to the United Mine Workers which provided that the opening and termination of their contract year should be April first, to correspond with that of the United Mine Workers, and that no strikes should be called at any other time than April first except to enforce a signed agreement. In the event of trouble between the engineers and employers the case was to be taken up by the local officers of the two organizations and in the event of failure to agree, it was to be referred to the state or national official before cessation of work. In the event of any trouble between the United Mine Workers and Operators which necessitated the suspension of work, the Coal Hoisting Engineers would not hoist any coal mined by non-union labor for the market or for the company's plant unless union labor was employed. The United Mine Workers were to agree that they were not to produce coal which was to be hoisted by any organization but the Coal Hoisting Engineers. Any member in good standing in the Coal Hoisting Engineers who desired work at his vocation under the jurisdiction of the United Mine Workers was to be admitted upon deposit of a transfer card in lieu of his initiation fee. Similarly any member of the United Mine Workers might become an engineer. These proposals were not accepted by the United Mine Workers, who held out for an unconditional surrender.[12]

The contention between the two organizations had now reached an acute stage. In the autumn of 1900 a strike was begun by the engineers in Indiana. The miners refused to help the engineers and the strike was lost. The miners then attempted to force the engineers into their union. Before calling this strike the engineers verbally notified President Van Horn of District No. 11 of the action they had taken and asked him if anything further was to be done or whether he had any suggestion to offer. He answered that everything possible had been done to avert a strike. Four days after the strike had been called President Van Horn issued an order to the Mine Pitmen's committee instructing them to go to the engineers and ask them to return to work. If the engineers refused they were to go to work with

[12] *Journal, Coal Hoisting Engineers*, vol. III, no. 2, January, 1904.

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any competent engineer whom the company might see fit to hire. If he was a union man, they were to take him into their organization on his card; if he was not a union man, to take him anyhow. This broke the strike and the men went back to work.[13] In the following year the president of the Coal Hoisting Engineers reported that no agreement had been reached between the two organizations but that the United Mine Workers of the Illinois region had given up their claim to the engineers. In other states, however, the engineers were forced into the miners' union.[14]

A decision on this question was given at the convention of the American Federation of Labor in 1901. The miners and coal hoisting engineers were not mentioned specifically but by implication.

> "As the magnificent growth of the American Federation of Labor is conceded by all students of economic thought to be the result of organization on trade lines . . . we declare that as a general proposition, the interest of the workers will be best conserved by adhering as closely to that doctrine as the recent great changes in the method of production and employment make practicable. However, owing to the isolation of some few industries from thickly populated centers, where the overwhelming number follow one branch thereof, and owing to the fact that in some industries comparatively few workmen are engaged over whom separate organizations claim jurisdiction, we believe that the jurisdiction in such industries by the paramount organization would yield the best results to the workers therein; at least till the development of organization of each branch has reached a stage wherein these may be placed without material injury to all parties in interest in affiliation with their national trade unions."[15]

This decision, adverse as it was to the Coal Hoisting Engineers, was unheeded by them. The Coal Hoisting Engineers refused to understand the decision as applying to themselves.[16]

At the convention of the American Federation of Labor in 1903, the Coal Hoisting Engineers protested against the United Mine Workers. The executive council decided that the Coal Hoisting Engineers should become part of the United Mine

[13] *Convention Proceedings Coal Hoisting Engineers*, 1901, p. 10.

[14] *Ibid.*, 1902, p. 7.

[15] *Convention Proceedings American Federation of Labor*, 1901, p. 240. Report of Special Committee on Autonomy. This Committee was composed of Samuel Gompers, James Duncan, John Mitchell, President of the United Mine Workers, John Mulholland and C. N. Hughes.

[16] *Journal Coal Hoisting Engineers*, vol. III, no. 1 (Dec. 1903) p. 11.

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Workers of America and that they should be admitted without the payment of initiation fees.[17] The engineers took a referendum vote upon the question which resulted in an almost unanimous vote against accepting the decision of the American Federation of Labor. The Federation then expelled the Coal Hoisting Engineers.[18] Though the decision of the American Federation of Labor revoking the charter of the Coal Hoisting Engineers did not, of itself, end the union, the effect of the decision was almost immediately apparent The suggestion was made to confine the organization to Illinois.[19]

Difficulty was experienced in reaching an agreement with the operators of Illinois, owing to the jurisdictional troubles, and in Indiana no agreement was signed with either organization till the question of jurisdiction was decided. The United Mine Workers now control the work in most of the coal mines.[20]

The United Brewery Workmen of America has had more jurisdictional disputes than any other union of the perfected industrial type. When miners, longshoremen or seamen are spoken of there is a certain idea conveyed as to what work is indicated. There is a preponderating number of men who are understood to be miners, longshoremen, etc., and from purely craft considerations could belong to no other unions. With the brewery workmen the conditions are different. There is to be sure, brewers' work, such as is done by the men who mix the malt and hops, and who attend the fermentation process; but these do not by any means include a preponderating number of men who work in or around the brewery. Bottlers, coopers. painters, carpenters, engineers, firemen, teamsters, and general laborers form a majority of workmen around all breweries. The Brewery Workmen wish to assimilate all these trades under their own organization, and they have had trouble with every class. save the general laborers, who have no separate union.

The United Brewery Workmen's Union was organized in 1887. Its first dispute was with the coopers. The coopers demanded all cooperage work around the breweries; this was to include new

[17] *Convention Proceedings Coal Hoisting Engineers,* 1904, p. 3.

[18] *Ibid.,* p. 4.

[19] *Ibid.*

[20] *Journal Coal Hoisting Engineers,* vol. III, no. 5 (April 1904), pp. 8, 9.

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work and repair work alike. In the Convention of the American Federation of Labor in 1897, the Coopers complained that the Brewery Workmen had been repeatedly upheld in the examining of beer packages and that the Coopers claimed the right to perform the work. They further alleged that an unjust boycott had been placed by the Brewery Workmen on ale and porter coming from Albany and Troy.[21]

During the year so many disputes had taken place between the two organizations that the American Federation of Labor requested them to appoint joint conference committees.[22] These conferences were ineffective and in the following year the president of American Federation of Labor appointed three men to hear evidence and to make recommendation as to which union should have the right to prepare loose cooperage in the breweries. The recommendations were, that where there was sufficient cooperage in the breweries to require the entire time of the coopers, these workers necessarily belonged to the Coopers' Union. When the cooperage work did not require the entire time of the cooper all coopers who did this work should belong to the Brewery Workmen. In spite of this decision the Brewery Workmen refused to surrender their jurisdiction over the coopers.[23] The Coopers further protested that in some factories the tightening of hoops on loose cooperage packages was being done by members of the Brewery Workmen. This contention was not upheld, as the specified work was implied in the decision of the year before, but it was held that all repairing and new work should be done by the members of the Coopers' Union. Thus the case stands. In the convention of the American Federation of Labor, 1901 and 1902, the protests of the coopers continued, but the decision remained unchanged.[24] In the convention of the American Federation of Labor, 1905, the question again arose, the coopers asserting that in certain breweries there was sufficient work in driving hoops in cellars and wash houses to keep a man or men busy and that members of the International

[21] *Convention Proceedings American Federation of Labor*, 1897, pp. 36–53.
[22] *Ibid.*, 1897, p. 99.
[23] *Ibid.*, 1899, p. 55.
[24] *Ibid.*, 1901, pp. 127, 245, 254, 255; 1902, pp. 83, 92, 131, 195.

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Coopers' Union were not employed. The American Federation of Labor refused to reopen the case at that time. The Brewery Workmen seem to be forcing the Coopers' Union out of breweries either by assimilating its members or by putting new men in their places.

Though the dispute with the coopers was the first in which the brewery workmen were engaged, it is by no means the most important, either in the number of men involved or in the vigor with which it has been fought on both sides. In 1896 the National Union of Steam Engineers was organized and affiliated with the American Federation of Labor.[25] Two years later the Stationary Firemen organized nationally.[26] Almost immediately a jurisdictional dispute arose between these two unions and the Brewery Workmen. It is important to consider this controversy in some detail, as it brings out very clearly the principles involved and the danger of these conflicts. The charter of the Brewery Workmen under the American Federation of Labor is very broad. By it the union is empowered and authorized to initiate into its membership any person or persons in accordance with its own laws and to conduct the business affairs of the said union in compliance with the best interests of the trade and labor movement in general. At their first convention of 1887 beer drivers, malsters, brewery engineers, and brewery firemen were represented and it was voted to amalgamate these various branches.[27] In an agreement between the Engineers and Brewery Workmen in 1899 the latter conceded the engineers working in breweries to the union of their craft. This agreement was not lived up to, as the Brewery Workmen not only retained engineers as members but continued to admit them to their organizations.[28] In 1900 it was reported that the Brewery Workmen retained engineers, firemen, machinists, team drivers, coopers and painters as members of their union and were preventing them from forming the legitimate unions of their own trade. These numerous and important struggles led to a decision in all these cases by the griev-

[25] *Convention Proceedings American Federation of Labor*, 1896, pp. 33, 79.

[26] *Ibid.*, 1898, pp. 22, 134, 135.

[27] *A Plea for Justice. A Plea for Right*, p. 8. Pamphlet of Brewery Workmen issued at the New Orleans convention, American Federation of Labor, 1902.

[28] *Convention Proceedings American Federation of Labor*, 1899, p. 55.

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ance committee of the American Federation of Labor. Despite these decisions the Brewery Workmen continued in their attempt to assimilate the firemen and engineers. The struggle reached its climax in St. Louis in 1903. According to a decision rendered in 1902 by the American Federation of Labor it was provided that engineers and firemen should have control of their trades, and that a committee from the three organizations and the American Federation of Labor should draw up an agreement for an adjustment for future difficulties.[29]

This was done in January of 1903. Immediately the Brewery Workmen called a special convention and so changed the agreement as to make it meaningless. At the Toronto meeting of the executive council of the American Federation of Labor the legality of the decision of the federation was denied by the Brewery Workmen, but their contention was not sustained. At this meeting the Engineers and Firemen demanded that the charter of the Brewery Workmen be revoked. The executive council denied this demand, but stated that the causes of the constant strikes and lockouts were due primarily to the unwise course pursued by the United Brewery Workers International Union in rejecting and acting in violation of the advice and decision rendered as the result of the experience of the labor movement. This admonition had no effect and an organizer of the American Federation of Labor was sent to St. Louis to effect a settlement. The Engineers and Firemen stated that for some time prior to August 25, 1903, they had a majority of men in the trade. They attempted to put agreements into force with the St. Louis Brewers' Association, but were refused. The Anheuser-Busch Brewery Company suggested that a meeting be held to meet the representatives of the two unions and if the Brewers' Association refused to do business with the unions the independent brewers would. When the time set for the meeting arrived, the Engineers and Firemen found that the Brewery Workmen were already in conference with the association. After waiting an undue length of time, the Firemen and Engineers withdrew. The next day the Engineers and Firemen visited the individual

[29] *Convention Proceedings American Federation of Labor*, 1900, pp. 67, 68, Executive Council's Report. Report of Grievance Committee, pp. 147, 148. The decisions were unfavorable to the Brewery Workmen.

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breweries and demanded that the agreements be signed. When this was refused the men were called out in the engine and boiler rooms and their places were taken by members of the United Brewery Workmen. The Brewers' Association took the position that the Brewery Workmen did not consider the decision of the American Federation of Labor final and that until the controversy was settled once and for all the association would stand neutral. The Brewers' Association finally agreed to do business with the Engineers and Firemen, provided the American Federation of Labor would guarantee to fill the places of the Brewery Workmen in the event of a strike by them. (The Brewery Workmen had threatened to strike unless they were given exclusive control of the breweries.) The American Federation of Labor, of course, refused to guarantee this; and in consequence no agreement was entered into by the association with the Engineers and Firemen.[30]

No settlement having been made either of the St. Louis controversy or the general question of jurisdiction, the case was continued in the 1904 convention of the American Federation of Labor. The executive council's recommendations, which were concurred in by the grievance committee and the convention at large, included not only firemen and engineers, but also teamsters. The teamsters working on brewery wagons had grown in numbers and had perfected an organization. The committee decided that the following be substituted for all past agreements and decisions, and be made the basis for working agreement between the organizations involved: all brewery employees, members of the United Brewery Workers' Union, might remain such provided that all firemen, engineers and teamsters affiliated with it might withdraw without prejudice to themselves. In the future the Brewery Workmen were not permitted to admit any of the above-mentioned trades into their organization. On the other hand these trades were supposed to conform to the laws, rules and regulations to which the majority of employees of the brewery belonged.[31] The executive council reported to the con-

[30] *Convention Proceedings American Federation of Labor*, 1904, Executive Council's Report, pp. 77–83.

[31] *Ibid.*, 1904, pp. 225–229.

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vention of the American Federation of Labor, 1905, that it had made every effort in its power to adjust the grievances in accordance with the instruction of the preceding year. "But found it exceedingly difficult, aye, impossible; in fact, the matter took on aggravated form, particularly in Philadelphia where we authorized one of our members to make an investigation and endeavor to carry out the decision. Nor had the Brewery Workmen withdrawn their members in the city of St. Louis and Belleville."[32] The executive council then appointed Mr. Adolph Strasser to make a thorough investigation. Mr. Strasser's investigation disclosed the fact that all of the organizations had violated the mandates of the convention of 1904, the Engineers and Firemen by negotiating with proprietors of breweries in Milwaukee in reference to wages and hours when they should have acted conjointly with the Brewery Workmen; the Brewery Workmen by continuing to admit engineers and firemen in St. Louis, Fayette City, Pennsylvania, East Liverpool and San Diego. They had also negotiated with brewery proprietors of Omaha for new contracts without consulting the Engineers and Firemen. Thus all the unions had made themselves liable for expulsion. Mr. Strasser advised that no grievance or dispute, with the exception of charges of scabbing, be entertained for a period of three years. However, Mr. Strasser found that Brewery Workmen had taken the places of striking engineers and firemen in St. Louis and Belleville and recommended that the union be suspended from the American Federation of Labor for a period of two years.[33] The executive council did not feel that it had authority to suspend the union and urged the three unions to confer and abide by the result of arbitration. The Engineers and Firemen agreed to this but the Brewery Workmen refused to comply.[34] After a heated discussion, the convention reaffirmed the decision of the 1904 convention. The executive council in 1906 reported that the controversy was continuing with unabated violence and that they had not succeeded in adjusting the difficulty.[35] The Brewery

[32] *Proceedings American Federation of Labor*, 1905, Executive Council's report, p. 66.

[33] *Ibid.*, pp. 70–71.

[34] *Ibid.*, 1905, p. 226.

[35] *Ibid.*, 1906, pp. 72, 73.

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Workmen did not evince any conciliatory spirit. In Columbus, Ohio, the City Central Trade and Labor Assembly admitted dual unions of Engineers and Firemen antagonistic to the unions of that craft and were expelled from the federation for so doing. In New Orleans engineers, firemen and teamsters had agreements with the employers which the Brewery Workmen urged the employers to break. When this was refused the Brewery Workmen ordered a strike to force the employers to enter an agreement with them. Many of the brewery workmen refused to obey the strike order and applied for an independent brewery workers' charter from the American Federation of Labor. On June 1, 1907, the charter of the Brewery Workmen was revoked.[36] The Brewery Workmen were not without their friends at the convention of the American Federation of Labor, 1907. A resolution was introduced by a delegate of the United Mine Workers, an industrial union, condemning the action of the federation and demanding the reinstatement of the Brewery Workmen and denying the right of the American Federation of Labor to expel an international union. On a motion of President Gomper's the Brewery Workmen were reinstated, provided they held another conference and agreed to abide by the decision of 1906.[37] The suspension had lasted only five months. The Brewery Workmen were readmitted on promising to abide by the decision.

The year 1908 was an eventful one in the dispute. In January, 1908, the Brewery Workmen proposed that all brewery engineers and firemen who were at that time members of the Brewery Workmen should remain such and that in all localities where the Brewery Workmen had contracts with the brewery proprietors covering engineers and firemen the jurisdiction should not be disputed and where engineers and firemen had contracts they should not be interfered with. Further a joint conference board was suggested. This proposition was refused as under its terms the Brewery Workmen did not permit the withdrawal of firemen and engineers from brewers' unions. The executive council maintained the position of the convention of 1906. In November, 1908, the Brewery Workmen and Engi-

[36] *Proceedings American Federation of Labor*, 1907, pp. 78–81. Executive Council's Report.

[37] *Ibid.*, 1907, pp. 274–279.

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neers entered into an agreement that all hostility should cease, adopting the original proposition of the Brewery Workmen with the proviso that in October, 1910, the engineers in breweries should take a referendum vote as to whether they preferred to remain members of the Brewery Workmen's Union. Further, each union might initiate members, and teamsters should be conceded to the Brewery Workmen. This agreement was submitted to the executive council.[38] At the opening of the convention of 1909 negotiations were still in progress with the firemen and teamsters.[39] The convention decided that the Brewery Workers and rival unions should cease hostilities for one year upon the following terms: first, all employees then members of the Brewery Workmen, Teamsters, or Stationary Firemen, should continue membership in separate organizations during the period of truce; second, they might regulate agreements without interference from any union; third, where more than one of the international unions had separate wage contracts governing the employees in a brewery they should jointly negotiate new wage agreements.[40] The year 1909–1910 was one of comparative peace; the only place where the dispute continued was in New Orleans. The referendum provided for in the agreement with the engineers resulted: for withdrawal from brewers and joining engineers, 62; against withdrawal, 1092; blanks, 5.

For the present the dispute seems to be settled favorably to the industrial union. The Federation of Labor's policy was marked by the greatest vacillation. It is difficult to see how their mediation has been of great moment, though it is probable that the conferences and conciliatory efforts had a certain moral influence in bringing about an adjustment. Certainly the attempt to maintain the principle of trade autonomy was an absolute failure. This principle seems to have little influence over the men when compared to the higher efficiency of a well-organized industrial union.

In disputes with industrial unions the craft unions have not usually been successful. The nature of the industries which have this type of union accounts for this. The miners work in

[38] *Proceedings American Federation of Labor*, 1908, pp. 207–213.
[39] *Ibid.*, 1909, p. 74.
[40] *Ibid.*, 1909, pp. 300–301.

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an industry which is in the main separated from other industries. The miner does not live in large industrial centers but in hamlets, villages, and camps. The strength of his miners' union depends upon its ability to act as a unit. But more important than this the various trades represented in or around a mine are not large or powerful enough to form a local which can be of weight in a collective bargain. A miners' local is a district; consequently even such important crafts as the engineers have by the condition surrounding the industry been forced into the Miners' Union.

The Seamen's Union, while its locals may be in large centers of industries, attempts to organize an industry whose conditions are different not only legally but industrially from any other. The relationships of all men on shipboard are closer than they would be to the craft to which they would belong if they were on land. The Brewery Workmen have completely organized their craft under one union, largely because of the socialistic bent of its members and leaders, which probably would have determined its structure if the industry had not been adapted to this form of organization. Another reason for the necessity of industrialization in these industries is the large proportion of the unskilled who work at the trade. The longshoremen before they attempted to control the seamen were almost entirely composed of unskilled men. The seamen themselves have a large quota of this class. Among the miners the unskilled are in a great majority. Among the brewery workmen the proportion of unskilled to skilled is large. The great body of the unskilled require the strengthening influence of a comparatively few skilled men. On the other hand, the skilled men, especially in the segregated industries, while large *in toto*, are small taken trade by trade in a given locality, and are not usually in the strategic position that they would be in a large local or in a well organized city. Therefore the tendency to industrial unions comes from the skilled as well as from the unskilled. Even such important classes as the engineers and firemen have not been able to withstand the well-organized industrial union. In the industrial union the similarity of class interest seems to be more clearly apparent than in the craft union.

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The trade amalgamation is organized upon the assumption that all crafts which work directly upon the product, no matter what differences there are in technique, should be organized under one union. These unions do not pretend to organize all the subsidiary crafts. It is not always possible to make a logical distinction between the trade amalgamation and the perfected industrial. Thus the Butcher Workmen, while not attempting to control teamsters, meat freight handlers, engineers or firemen, have demanded jurisdiction over meat salesmen in butcher-shops and grocery stores against the opposition of the Union of Retail Clerks.[41] Similarly the Bakers and Confectioners, while not demanding the other subsidiary trades, wish to assimilate the bakery salesmen. It is quite possible to consider the trade amalgamation as the perfected industrial in process of development. At the present time the number of trade amalgations far exceeds that of the perfected industrials, and it is not usually difficult to distinguish between them. Jurisdictional disputes with trade amalgamations have taken place:

1. Between two trade amalgamations. (In this case one of the trade amalgamations raises the issue of "craft autonomy").
2. Between the trade amalgamation and the craft union.

In conflicts between trade amalgamations one union always assumes the craft argument as opposed to the industrial argument. Thus the Amalgamated Woodworkers in their conflict with the Carriage and Wagon Workers and Piano and Organ Workers assert control over woodworkers in shops controlled by the latter unions. The Amalgamated Woodworkers is a trade amalgamation supposed to include all machine and shop workers on wood. Naturally, the scope of its jurisdiction is enormous, varying from the most skilled man to the worker on cheap furniture. The Carriage and Wagon Workers and the Piano and Organ Workers wish to control all those who work directly on the product. When they assert their claim to woodworkers in these trades they assume the industrial union argument as opposed to the craft argument of the woodworkers. Similarly the Rubber Workers, a trade amalgamation supposed to include all rubber

[41] *Proceedings American Federation of Labor*, 1902, p. 205.

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workers, assumes the craft union's position to all intents and purposes when in conflict with the Boot and Shoe Workers.

The first dispute of this sort which I have found was that between the International Furniture Workers of America and the Machine Woodworkers International Union. The constitution of the "Society Harmonica," Chicago, 1876, included every workman of good character employed in the furniture trade, viz: cabinet-makers, carvers, piano-makers, turners, varnishers, finishers, upholsterers, machine workers, gilders, etc. This jurisdiction is now represented by five distinct unions. So far as I am able to discover, no jurisdictional dispute arose with another trade amalgamation till the formation of the Machine Woodworkers International Union in 1890. This union was intended to include an unlimited number of local unions "composed of molderhands, sawyers, fumers and all kinds of competent machine woodworkers." This organization, therefore, attempted to take in a large proportion of the members of the Furniture Workmen. In fact, it included the great bulk of workers, for by this time the greater part of furniture was being made by machinery. In a pamphlet issued later than 1892 (the precise date cannot be determined) the Furniture Workers refer to the Machine Woodworkers as follows: "To the credit of the Machine Woodworkers International Union be it said that they have with great energy worked so unresponsive a field; having to deal with a material that can with far more ease be interested in baseball than in the more serious work of the labor movement, they have done exceedingly well. . . . . We have good reason to welcome the formation of this body."[42] The main contention of the Furniture Workmen was with the Brotherhood of Carpenters and Joiners; consequently the details of the fight with the Machine Woodworkers are obscured. In the 1894 convention a series of resolutions was drawn up for the purpose of bringing about a better understanding between the two bodies. They provided:

I. In localities where there is a Machine Woodworkers Union affiliated with the National Furniture Workers Union, the Machine Woodworkers International Union shall refrain from

[42] Pamphlet entitled, *Condition of the Woodworkers of the United States of North America*, 1892(?).

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organizing a union of its own, and in localities where there are machine workers belonging to a local union of the International Furniture Workers Union, the Machine Woodworkers International Union shall organize a union only by consent of such local union.

II. In localities where there exists a Machine Workers Union affiliated with International Furniture Workers Union, and where the Machine Woodworkers International Union has organized one also, the members of such unions shall be transferred to the older unions.

III. When there is no Machine Woodworkers Union affiliated with the International Furniture Workers Union, the latter shall make no effort whatever to organize one, but, on the contrary, shall assist the Machine Workers International Union in the work of organizing by every means possible.

This agreement was adopted by the Furniture Workers.[43] In 1895 the Amalgamated Woodworkers International Union was formed to consist of "an unlimited number of local unions composed of trustworthy and industrious mill and factory woodworkers."[44]

The dispute between the Piano and Organ Workers and the Amalgamated Woodworkers International Union was an inheritance of the latter union from the International Furniture Workers, though it is probable that it would have arisen *de novo* when the national organization of the Piano and Organ Workers was affected in 1898. The Piano Workers before this time had been in locals with the Furniture Workers.[45] In a pamphlet entitled, "The Conditions of the Woodworkers of the United States of North America," the following is said of the Piano Workers:

"A peculiar specialty of the woodworkers of America are the piano-makers. They are in many respects separated and stand aloof from the great body of American labor, although emigration of firms from the large cities to smaller towns is in that calling hardly perceptible. New York, Boston, Chicago and Baltimore completely control the market and although

[43] *Convention Proceedings of International Furniture Workmen*, 1894, p. 21.

[44] *Constitution of Amalgamated Woodworkers International Union*, 1896, sec. 3.

[45] *Proceedings of Convention of International Furniture Workers*, 1894, pages 5, 12, 13 mention affiliated locals of Piano-Makers in New York, Baltimore and Canada.

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a firm from Philadelphia has gone to New Jersey and some New York firm to Erie, Pennsylvania, and New Haven, Connecticut, we may not for some time to come expect to see conditions resembling those prevailing in the manufacture of cheap furniture.''

And again:

''The organization of the United Piano-Makers is in the main confined to New York, there being but few lodges outside of this city. Its membership has for a long time been stationary, has even declined and with it, of course, the wages and general conditions of the trade, . . . If this organization does not mend its ways soon, it will lose the last remnant of its prestige.''[46]

In 1898 the organizer of the Piano and Organ Workers International Union of North America notified the general secretary of the Amalgamated Woodworkers that that organization was going to make application to the American Federation of Labor for a charter. In order to avoid a conflict with the Woodworkers a conference was suggested. On March 20, the Woodworkers' council of Chicago submitted an agreement which it had made with the Piano Workers. This provided that all cabinet-makers and finishers at work in piano factories who were less than two years in the Amalgamated Union at the date the agreement was made should become members of Piano-Makers Union No. 1 without paying the initiation fee. It also provided that all machine men employed in the piano factories controlled by the Piano Workers Union should become members of the Amalgamated Union. The executive council of the Woodworkers refused to approve this proposed agreement on the ground that it could not ask men who had been in their union less than two years to become members of another organization. The Piano Workers desired that an agreement of national scope similar to the Chicago agreement be ratified. This was refused on the ground that ''In time our organization would become a union of Machine Woodworkers instead of Factory Workers and bring us back to the years gone by when we had the workers in our industry divided into various organizations, each organization representing a separate branch of the trade.''[47] In the convention of the American Federation of Labor in 1899, the Piano and

[46] Pamphlet entitled, *Condition of the Woodworkers of the United States of North America*, pp. 3, 4, 15. 1892(?).

[47] *Proceedings and Annual Convention Amalgamated Woodworkers Union of America*, 1900, pp. 16–17.

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Organ Workers again asked for a charter, describing themselves as a body admitting to membership "All persons employed in the manufacture of pianos, organs and musical instruments, except firemen and engineers." The committee recommended that inasmuch as the jurisdictional dispute as to the case-makers was to be arbitrated, the charter should be granted. The Woodworkers opposed this, however, and again the Piano Workers were disappointed.[48] At the 1901 convention of the American Federation of Labor an agreement was reached betwen the two organizations. All objection to granting a charter to the Piano and Organ Workers was waived, provided that that organization would concede jurisdiction over all machine woodworkers employed in piano and organ factories and require these woodworkers who were members of the Piano and Organ Workers to become members of their organization. All cabinet workers were allowed to retain membership in the Amalgamated Woodworkers and their cards were to be duly recognized by the Piano Workers. Unions of piano workers which at the time were chartered by the Amalgamated Woodworkers were to remain under that jurisdiction. This was to prevent any member of the Amalgamated Woodworkers, except machine woodworkers, from joining the Piano and Organ Workers. No effort was to be made to alienate any woodworker from his organization.[49] The Piano and Organ Workers, not satisfied with gaining a charter which had been refused by two preceding conventions, continued the jurisdictional fight in the next session of the American Federation of Labor, contending that the terms of the agreement had not been lived up to by the Woodworkers and that full jurisdiction should be given them in factories of their industry. The federation refused to comply with this demand.[50] The charter had proved unsatisfactory to both parties and shortly after this, representatives of both organizations met at Toronto and declared that all agreements between the two organizations were null and void, that the whole question of jurisdiction should be submitted to a committee of arbitration to consist of an equal number of repre-

[48] *Proceedings of Convention of American Federation of Labor*, 1899, pp. 141, 142.

[49] *Ibid.*, 1901, pp. 160, 161, 230.

[50] *Ibid.*, 1902, p. 197.

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sentatives of the two organizations and a third party selected by them, and that the majority report of the commission should be binding on both organizations. This resolution was favored by a majority of the locals of the Woodworkers.[51]

The most numerous group of disputes which arise because of structural differences of the unions are those between the craft union and the trade amalgamation. This is because there are more trade amalgamations than industrial unions and because the trade amalgamations with a few exceptions have not established themselves as firmly as the industrials. The trade amalgamations do not conflict with each other very often because the line of demarcation with them is not the process but the product. It will not be necessary to enter into all the details of these disputes. They do not differ in principle from disputes between the industrial union and the craft union.

The dispute between the International Association of Machinists and the International Typographical Union arose through the introduction of the linotype into printing offices. The Typographical Union is usually considered a trade union, but in its attempts to control all subdivisions of the industry in printing offices, it has adopted the trade amalgamation policy. From purely craft considerations the linotype machinist is as much a machinist as though he worked in a machine shop. The Typographical Union saw that with the introduction of the linotype two policies were open to it. Either it must take the linotype machinists into its union and thus be able to make agreements including them, or allow them to join the Machinists Union, where they belong from craft considerations. In that case the union would lose control of an important branch of the trade. At first it adopted the latter alternative.[52] The ability to act uniformly for the whole shop whether in peace or in war, and the harm that a rival organization could do the printers, determined the future course of the Typographical Union.

[51] *Proceedings of Amalgamated Woodworkers' International Union*, 1904, p. 11.

[52] "The laws of the Typographical Union require the machinist to be a union man (not, however, a member of the Typographical Union), but there are many non-union men working in union printing offices. When a machinist comes into a linotype printing office to take charge of machines he is very seldom asked if he is a union man by the printers;

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In March, 1896, the American Federation of Labor decided that machinists working on the linotype machine must belong to the International Association of Machinists.[53] At this time it does not appear that the Typographical Union was making strenuous efforts to control this branch of the trade. Certain linotype operators in Brooklyn seceded from the International Association of Machinists and formed themselves into the Associated Type Setting Machine Engineers. At the Louisville convention of the Typographical Union they were refused a charter of affiliation. To this convention President O'Connell of the Machinists sent the following pithy dispatch: "International Association of Machinists protest against granting charter to linotype machinists. We are fully capable of handling that part of the business. We stand ready to assist you always to build up your organization. No breach should come between us now."[54] The rivalry between the two bodies was not settled. In January, 1898, it was reported that all misunderstandings between the two had been settled at a conference at Nashville during the session of the American Federation of Labor's convention. The basis was similar to that between the Brewery Workmen and the Coopers. The printers agreed not to interfere with the machinists who are in charge of linotype machines and the machinists were not to interfere with combination men who are in charge of small plants in small offices. Both unions agreed not to declare any office unfair without the consent of both presidents. Any misunderstanding that might arise was to be adjusted by the two presidents of the organizations in accordance with the laws of each.[55]

As in the case of the coopers and brewery workers this division of work proved unsatisfactory. At the Syracuse convention of the Typographical Union in October, 1898, a law was

if asked and he says he is, no more is said. They take his word for it and never ask to see his working card. If he does not belong to the union a faint kick is made, but the non-union machinist stays there with them. Why the Typographical Union says a machinist must be a union man I cannot see unless they expect the machinist will go out with them if they have trouble. . . . If he has trouble the machinist can do the printers more damage in the case of a strike than the printers can do the machinist."—*Machinists Journal*, vol. VI, no. 8, p. 341.

[53] *Ibid.*, vol. VIII, no. 3, p. 94.

[54] *Ibid.*, pp. 98, 99. This dispatch was received after the consideration of the request of the typesetting engineers.

[55] *Ibid.*, vol. X, no. 1, p. 2.

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passed, which was sustained by the referendum, that until July 1, 1899, non-union printing machine tenders might make application for membership in the Typographical Union, and subordinate unions were empowered to admit such to membership irrespective of other laws and customs. After said date all machine tenders should be members of the International Typographical Union. Non-printer members should be permitted to work only at the particular subdivision of the craft in which they were employed at the time of admission.[56]

At the convention of the American Federation of Labor in the same year the machinists presented a resolution providing for the suspension of the International Typographical Union from all benefits and privileges of the American Federation of Labor, provided they did not transfer the machinists working on the linotype within sixty days. Instead of this drastic resolution the grievance committee substituted a scheme of arbitration which after an acrid debate was carried.[57]

The Typographical Union refused to appoint a committee, stating that it refused to arbitrate its own laws. Again at the next convention of the American Federation of Labor the Machinists presented a resolution against the Typographical Union and again the Grievance Committee refused to concede their demands. The decision of the Grievance Committee is simply one more instance of the utter weakness of the American Federation of Labor in deciding disputes of any importance.[58]

As in so many other disputes there has been no logical ending. The good offices of the American Federation of Labor have been of no avail, the arbitration schemes have accomplished nothing, and the controversy, not decided by anybody or on any principle, is won by the stronger union, which in this case is the International Typographical Union.

[56] *Proceedings Eighth Convention Machinists*, 1899, pp. 331–335. A full discussion is given. Another grievance of the machinists was that certain newspaper proprietors sided with the Typographical Union.

[57] *Report of Proceedings of American Federation of Labor* in *Machinists Journal*, vol. XII, no. 2, pp. 79–84.

[58] The decision of the grievance committee was as follows: "While we concede that in the controversy the International Typographical Union is within its constitutional powers in reserving to itself the right to say whether or not the dispute between the union and the International Association of Machinists on the linotype controversy shall be arbitrated, we deeply

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Disputes of a nature like the one just discussed are so numerous that a simple statement of those which have come up for adjustment before the American Federation of Labor within the last decade will give an idea of their importance.

Woodworkers *vs.* Box Makers and Sawyers. (*Proc. A. F. L.*, 1900, p. 15).
Shirt Waist & Laundry Workers *vs.* Team Drivers. (*Ibid.*, p. 153).
Blacksmiths *vs.* Allied Metal Mechanics. (*Ibid.*, 1902, p. 198).
Boot & Shoe Workers *vs.* Counter Workers. (*Ibid.*, 206).
Clerks *vs.* Butcher Workmen. (*Ibid.*, 205).
Electrical Workers *vs.* Street Railway Men. (*Ibid.*, p. 54).
Printing Pressmen *vs.* Typographical Union. (*Ibid.*, p. 211).
Textile Workers *vs.* Silk Weavers. (*Ibid.*, p. 211).
Allied Metal Mechanics *vs.* Plumbers. (*Ibid.*, 1903, p. 249).
Carriage & Wagon Workers *vs.* Painters. (*Ibid.*, p. 238).
Jewelry Workers *vs.* Watch Case Engravers. (*Ibid.*, p. 222).
Ladies Garment Workers & Laundry Workers *vs.* Laundry Workers. (*Ibid.*, 1903, p. 248).
Metal Polishers *vs.* Carriage & Wagon Workers. (*Ibid.*, p. 224).
Painters *vs.* Woodworkers. (*Ibid.*, p. 248).
Sheet Metal Workers & Painters *vs.* United Metal Workers. (*Ibid.*, pp. 150, 151).
Wood Carvers *vs.* Woodworkers. (*Ibid.*, p. 248).
Blacksmiths *vs.* Carriage & Wagon Workers. (*Ibid.*, 1904, p. 209).
Painters *vs.* Car Workers. (*Ibid.*, 1905, p. 195).
Upholsters *vs.* Carriage & Wagon Workers. (*Ibid.*, p. 166).
Machinists *vs.* Elevator Constructors. (*Ibid.*, 1908, pp. 199–200).
Actors *vs.* Electrical Workers *vs.* Theatrical Stage Employees. (*Ibid.*, 1909, pp. 85–86).
Photo-Engravers *vs.* International Typographical Union. (*Ibid.*, p. 298).
Teamsters *vs.* Bakery & Confectionery Workers. (*Ibid.*, 1910, p. 287).
Bookbinders *vs.* International Typographical Union. (*Ibid.*, p. 285).

The last class of disputes which we are to consider involving structural differences are those which are occasioned by craft unions assuming industrial tendencies. It is not always easy to differentiate between a dispute of this nature and one involv-

regret that the International Typographical Union did not accept the expressed desire of the American Federation of Labor in the Detroit convention to submit the dispute to a fair tribunal for adjustment, and instead of declaring by vote or otherwise that we shall take no action in the premises or that the charter of the International Typographical Union be revoked, the American Federation of Labor in convention assembled pledges its good services for further mediation between the organizations concerned and directs the incoming executive council to stand ready to act in that capacity should opportunity for doing so present itself, during the incoming year.'' No opportunity did present itself, as the International Typographical Union was unwilling to arbitrate.

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ing a trade amalgamation. For while the trade amalgamation is an incomplete industrial union, a craft union which assumes an industrial tendency closely approaches it. Yet, I think there is a certain value in maintaining the distinction, because a union is not to be considered solely by what it does in every contingency but by what it considers itself to be and by what its habitual jurisdiction and lines of action are. Thus in the dispute between the United Brotherhood of Carpenters and Joiners and the Amalgamated Woodworkers for the control of sash and trim made in factories by machinery, the carpenters assume an industrial position, but simply because the manufacture of sash and trim in factories threatens to take away the work of the carpenters on buildings. Their union does not desire to control other machine woodwork. From purely craft considerations there is no question that the machine woodworkers on sash and trim for buildings should belong to the Amalgamated Woodworkers. The work is similar to all other simple machine woodwork over which the Amalgamated Woodworkers have undisputed sway. On the other hand it differs from any other work, which, so far as technique is concerned, could be termed carpenters' and joiners' work. Furthermore the United Brotherhood of Carpenters and Joiners is a craft union. It has never attempted to gather into its jurisdiction all or even a majority of the trades engaged in woodwork, and except in this one branch it does not attempt to control any factory work. The United Brotherhood has had and has other jurisdictional disputes, but this is the only one in which it has assumed the point of view of the industrial union. This conflict, though of long standing, has grown in violence until today, with probably one or two exceptions, it is the most important which afflicts the trade unions. In 1891 Union No. 7 of New York reported to the convention of Furniture Workers that, "with regard to harmony with the sister trades, such as Carpenters, Varnishers, Builders and Carvers, a great deal is still to be desired despite repeated attempts and agreements which are often purposely ignored by the Carpenters."[59] Union No. 7 in the following convention reported that the Brotherhood of Carpenters and Joiners had endeavored to bring about harmonious

[59] *Eighth Convention of International Furniture Workers of America*, pp. 31, 32.

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action and that other carpenters' organizations had been trying hard to force it out of the trade altogether. Local No. 12 of St. Louis stated that they had "compelled recognition on the part of the Carpenters." Local No. 26 of Buffalo favored an amalgamation with the Brotherhood of Carpenters.[60] Up to this time the antagonism between the unions had been local and no official action had been taken by the national bodies either for warfare or for amalgamation. At this convention there was a strong feeling manifested for an amalgamation of the two bodies into a union of woodworkers and kindred trades. This amalgamation was to be complete and to comprise the whole industry.[61] It was decided that the executive committee confer after the adjournment of the convention with the general executive board of the United Brotherhood of Carpenters and Joiners to ascertain whether they were willing to appoint a conference committee in conjunction with a like committee of the Machine Workers.[62]

Though historically the connection between the dispute of the Carpenters and Furniture Workers and later with the Amalgamated Woodworkers is unbroken, nevertheless in this earlier period the basis was different. The object of the Furniture Workers was to form a federation of trades working in wood. The Carpenters and Joiners Union persistently maintained its trade character. Witness the accusation of the Furniture Workers:

> "Among its membership there may often be found the rankest egotism, coupled with a most ridiculous know-nothingism, a combination that cannot so very easily be found to the same extent in any other organization. In matters industrial they are conservative and extremely reactionary in political aspects. Thus leaders to-day still hold the position of the old style mossback English trade union in spite of the fact that in this present state of the development of capitalistic society every sane man ought to know that the interests of all workers are the same, that the old methods of fighting capital have become and are ever becoming insufficient and must needs be supplanted by others."[63]

With the formation of the Amalgamated Woodworkers and the phenomenal growth of the United Brotherhood of Carpenters and Joiners, the basis of the dispute changed. On one side the Amalgamated Woodworkers dreaded the encroachment of a

[60] *Ninth Convention of International Furniture Workers*, 1894, pp 13, 15.
[61] *Ibid.*, p. 19.
[62] *Ibid.*, p. 22.
[63] *Condition of the Woodworkers of the United States*, pp. 14, 15, 1892.

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mammoth organization on an important branch of the trade; on the other, the United Brotherhood recognized that the ever-increasing use of machinery in the making of sash and trim would take away from them a very important part of carpenter work unless jurisdictional changes were made to meet changing methods of production. The idea of federation passed away and the dispute assumed more clearly a "trade jurisdictional" aspect, with this peculiarity, that the trade or craft union assumed an industrial position and the trade amalgamation or semi-industrial assumed the position of maintaining its trade autonomy.

In 1894 the Carpenters entered into a jurisdictional agreement with the Machine Woodworkers. After the amalgamation of the Furniture Workers Union and the Machine Woodworkers into the Amalgamated Woodworkers, the agreement was abrogated by the United Brotherhood. At the convention of the American Federation of Labor in 1901 the Carpenters charged that woodworkers in Boston were doing carpenters' work; and it was urged that if this were not corrected the charter of the Amalgamated Woodworkers should be taken away.[64] No action was taken at the time, but at the convention of 1902, the executive council brought in a report in which the application of the United Brotherhood was denied and the position of the two unions clearly set forth.[65] The report of the committee advised a conference between the two organizations and it was agreed that committees from both organizations should meet on March 1, 1903. An arbitrator was chosen and the well-known Downey decision gave the work in dispute to the Amalgamated Woodworkers. The United Brotherhood refused to accept the decision of the arbitrator and took an appeal to the convention of the American Federation of Labor, 1903. The United Brotherhood also demanded that the label of the Amalgamated Woodworkers be taken away. The appeal of the United Brotherhood was denied and the Downey decision affirmed.[66] The United Brotherhood has never heeded this

[64] *Proceedings of Convention of American Federation of Labor*, 1901, pp. 91, 251.

[65] *Ibid.*, 1902, pp. 165, 166.

[66] *Ibid.*, 1903, pp. 241, 243, 246.

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decision and, being the stronger organization, has been able to inflict serious injury on the Woodworkers. The Woodworkers complained in the convention of the American Federation of Labor 1904 that the decision had been flagrantly violated by the United Brotherhood in many ways, such as "encouraging their members to take the places of striking woodworkers, breaking up our unions and offering inducements to our members to secede from our organization."[67] The committee on grievances reported, "That the representatives of the two organizations seemed to be in no frame of mind to adjust their differences and for this reason we regret to report our inability to make recommendations."[68] The delegates of the rival organizations at the Pittsburg convention of the American Federation of Labor in 1905 formally signified their willingness to enter into a temporary trade agreement, although the delegates had no power to enforce the agreement. This agreement was to include all men working in mills and factories. Pending negotiations, hostility between the organizations was to cease and a conference was to be held in Indianapolis in January, 1906. President Gompers was to act as an advisor, but not in the capacity of arbitrator.[69] This conference was of no avail. The grievance committee reported back to the convention of the American Federation of Labor as follows:

"Not only has the strife become more bitter between the memberships of these respective organizations, but it has resulted in one of them declaring unfair a firm in which the other organization has an agreement for the conducting of a union shop under union conditions. When a jurisdiction dispute between two organizations reaches such an acute stage that it not only involves the membership but also employers who are decidly inclined to be fair toward labor and particularly towards organized labor, it reaches a stage which makes us halt and think whether such a course does not vitiate much of the good resulting from our organized effort. Surely the interests of our fellow workers are not advanced by such a procedure.

"We are at a loss as to the course to pursue other than to impress upon all the necessity of making heroic efforts for the purpose of adjusting inter-union differences whether of jurisdiction or otherwise. In any event, fairly inclined employers should not be placed in the position of becoming innocent sufferers from our internal contentions."[70]

[67] *Proceedings of Convention of American Federation of Labor*, 1904, p. 219.

[68] *Ibid.*, p. 233.

[69] *Ibid.*, 1905, pp. 226–228.

[70] *Ibid.*, 1906, pp. 208, 210. Report of Grievance Committee.

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In 1906 the Woodworkers and the Carpenters entered into an agreement which it was hoped would end the difficulties of the two bodies. The provisions were: (1) complete amalgamation within two years from November 1, 1906; (2) the officers or their successors and the organizers of the Amalgamated Woodworkers should supervise and manage the affairs of the Woodworkers until amalgamation took place; (3) woodworkers, who were claimed by the Amalgamated Woodworkers, should, wherever practicable, be organized under a charter of either organization of their choice; (4) woodworkers and carpenters might join in mixed locals under the United Brotherhood of Carpenters in centers where there were not sufficient numbers to maintain separate charters; (5) local unions then attached to the organizations in interest should remain in such affiliation until the consummation of the amalgamation; (6) in case of a strike or lockout which involved the members of the Amalgamated Woodworkers, after vote should have been taken and approved to amalgamate, if the funds of the Amalgamated Woodworkers were sufficient to support their members in the trade controversy, the funds of the United Brotherhood should not be called upon to defray said expenses, but if the funds were insufficient and the proposed trade movement or lockout was approved by the general executive board of the United Brotherhood, it should be supported out of the funds of the United Brotherhood; (7) all trade agreements of the Amalgamated Woodworkers and United Brotherhood in force on November 1, 1906, should be respected and lived up to by all concerned, except the clauses specifying members of the United Brotherhood or members of the Amalgamated Woodworkers. New agreements should not extend beyond November 1, 1908, the period of this amalgamation. Members of either organization might work in shops where such agreements existed without violating this contract; (8) this agreement should be subject to ratification by both organizations in accordance with their respective laws; (9) all hostilities of whatever nature between the two organizations should immediately terminate and be withdrawn as an evidence of good faith, without discrimination to the members of either organization; (10) it was herewith

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agreed that this plan of amalgamation be submitted and recommended for adoption to both organizations by the executive officers representing each.

This was a distinct surrender on the part of the officers of the Amalgamated Woodworkers. It was an admission of the impossibility of upholding the Downey decision. Amalgamation would mean surrender of the work in dispute by the Amalgamated Woodworkers. This very elaborate plan of amalgamation was of no immediate importance. The customary resolution of censure of the United Brotherhood of Carpenters was introduced at the next convention of the American Federation of Labor and was withdrawn when the committee reported that the officers of the Woodworkers had not submitted the plan of amalgamation to their union.[71] The fight continued unabated. The Federation of Labor or at least the controlling members dissented from the original decision of the controversy. We find President Gompers urging the Amalgamated Woodworkers to amalgamate with the United Brotherhood.[72] In 1909 a similar agreement to the one quoted above was arranged between the officers of the two bodies. This was to be effective till November 1, 1910.[73] The convention endorsed the agreement. A referendum of the Amalgamated Woodworkers refused to endorse the amalgamation plan and their officers refused to meet the Carpenters' officials to discuss plans of amalgamation. The American Federation of Labor threatened to revoke the charter of the Woodworkers in April, 1911, if they did not agree to the amalgamation proposed.[74]

[71] *Proceedings of American Federation of Labor*, 1907, pp. 270, 271.
[72] *Ibid.*, 1909, p. 83.
[73] *Ibid.*, pp. 290, 291.
[74] *Ibid.*, 1910, pp. 105, 106.

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THE GUIDING POLICIES OF THE A. F. OF L. IN DECIDING DISPUTES

The American Federation of Labor is a voluntary association of national and international unions, local unions unaffiliated with national unions, labor councils and state, territorial and provincial federations. It has never attempted, despite frequent suggestions, to exercise a coercive control over its members. Its members may make any kind of agreement or no agreement, as they may desire, with employers, they may establish a minimum wage at will, they may establish hours or shop rules independently of the Federation. They may enter sympathetic agreements with unaffiliated unions and they may remain aloof from sympathetic agreements with affiliated unions. They may organize along craft, industrial, or semi-industrial lines. The power which the Federation possesses rests solely in the moral and occasional financial support which it gives to affiliated unions, though this support is also given to unaffiliated unions. It is not a coercive or militant organization. It is strong only in so far as it is able to focus and reflect the general position of organized labor upon political and industrial questions. To be efficient it must include as many of the labor organizations as it can possibly attract. Its admission requirements must not be too onerous and its method of disciplining recalcitrant affiliated unions must not be too harsh. In short, to be the representative of the hopes and aspirations of the labor movement it must not assume any powers which may prove irksome even to an influential minority of its membership. This loose form of organization has one distinct advantage, inasmuch as it makes possible an organization covering a very wide field. The Federation is weak in so far as it is not able to carry out its principles or to enforce its decrees with that energy which marks the highest efficiency.

The early history of the Federation is singularly free from jurisdictional disputes of the kind discussed in this paper. Its early efforts were devoted to perfecting its organization and defending itself against the Knights of Labor. The struggle with the Knights of Labor brings out clearly the principle of trade

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autonomy, which from the beginning and up to the present time has been influential in deciding its course of action.

The Federation of Organized Trades and Labor Unions of the United States and Canada, from which the American Federation of Labor developed, met in Pittsburg in 1881. It was to consist of "such trades and labor unions as shall after being duly admitted conform to its rules and regulations and pay all contributions required to carry out the objects of this Federation."[75] The objects were: (1) the encouragement and formation of trades and labor unions; (2) the encouragement and formation of trade and labor assemblies or councils; (3) the encouragement and formation of national and international trade unions.[76] The constitution remained practically unchanged till the convention of 1884, when it was amended so that among its objects was included the securing of the autonomy of national and international unions.[77]

Thus before the establishment of the American Federation of Labor the doctrine of trade autonomy was incorporated in its constitution and policy. It would be an error to suppose that jurisdictional controversies between the affiliated unions led to this. It was because of the conflict with the Knights of Labor, who through their district assemblies, threatened the jurisdiction of the national and international unions. The first constitution of the American Federation of Labor restated the doctrine of trade autonomy even more vigorously.[78]

The American Federation has gradually improved its mechanism for the settlement of controversies. They are referred to the grievance committee, which ordinarily in important cases orders them referred to the Executive Council, or if the dispute originates during the interval between conventions the Executive Council makes recommendations to the convention. The grievance committee is appointed by the president and it exists only during the convention. The Executive Council is elected and serves throughout the year. The procedure is to refuse to make a decision till

[75] *Federation of Organized Trades and Labor Unions*, 1881, Article I of Constitution.

[76] *Ibid.*, Article II.

[77] *Ibid.*, 1884, Article I of Constitution, Sec. 4.

[78] *Proceedings of American Federation of Labor*, 1886, Article II of Constitution, Sec. 2.

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the parties in dispute have first conferred. This mechanism has been further improved by the building trades' method of submitting disputes to a special building trades' department and metal trades' disputes to the metal trades department. These departments do not usurp the prerogative of the Executive Council, but they are supposed to know intimately the questions involved in the jurisdictional controversies that came before them.

By 1901 the American Federation of Labor was completely at sea as to how the numerous questions of jurisdiction that came before it were to be decided. By this time the Brewery Workmen's dispute and particularly the miners' disputes with the engineers had reached fever heat and the simple policy of deciding according to the principle of trade autonomy seemed doomed to failure, owing to the growth of these industrial unions. A special committee to consider the question was selected, of which John Mitchell, then president of the United Mine Workers, was the guiding spirit. Though president of the largest union in the Federation and one which was successfully working out the principle of industrialism, Mitchell represented the conservative trade autonomy party in the Federation. The other members of the committee were Samuel Gompers, James Duncan, John Mulholland, and C. N. Hughes, all conservative trade unionists. This report admitted the impossibility of determining the exact point where one trade ended and another began and the impossibility of drawing any hard and fast line by which all trade unions could be governed. The committee reiterated its adherence to organization along trade lines and felt that it was neither necessary nor expedient to make a radical departure from this principle. It made an exception in the case of the isolated industries "far from thickly populated centers where the overwhelming number follow one branch; . . ." in such industries the committee approved of jurisdiction going to the paramount union.[79] This is as far as the American Federation of Labor has ever put itself on record as favorable to the extension of the industrial idea. At the other extreme is the position of the Socialist faction, whose position is indicated by resolutions introduced by Victor Berger at various conventions

[79] *Proceedings of the American Federation of Labor*, 1901, p. 240.

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of the American Federation of Labor. Trade autonomy according to this faction "is but the application to the labor movement of the outworn principle of individualism." The development of modern machinery and of industrial processes on a large scale is in fact creating identity of interests among many crafts hitherto only slightly related. It is the cause of constant jealousy on the part of the various unions affected. Therefore the principle of industrial organization is urged upon those crafts which are bound with others by the use of the same machinery, by contract in the same productive process, or by working for a common employer or group of organized employers.[80] This point of view has not met with favor from the leaders of the federation or from the rank and file.

A more moderate view but one which offers no principle for discussion is that proposed by Walter Macarthur of the seamen's Union.[81]

Whereas, the recurrence of jurisdiction disputes in the conventions of the American Federation of Labor occupies much time and effort which could be better devoted to devising and perfecting measures of common defense against the common opposition to organized labor; therefore be it resolved that the following recommendations are submitted to the affiliated organizations, as a basis of temporary adjustment and final settlement, to-wit:

1. Except in the case of those disputes satisfactorily adjusted by this or any preceding convention by mutual agreement or by other means, organizations now in disagreement, or which may hereafter disagree upon questions of jurisdiction, shall permit the disputed points to rest in abeyance for the period of one year from this date.

2. During this period each organization in question shall be permitted to retain and exercise jurisdiction so far as the same is actually established at the time of disagreement, certificates of membership to be accepted as prima facie evidence of jurisdiction.

3. During this period men and women holding certificates of membership in two or more organizations involved in a dispute as to jurisdiction shall, should the question of jurisdiction over such men and women be raised by either or any organization, be required and permitted to individually choose the organization to which they prefer to acknowledge allegiance. Having so chosen such men and women shall be conceded to the jurisdiction of the organizations to which they have respectively tendered their allegiance.

[80] *Proceedings American Federation of Labor*, 1905, p. 158.

[81] *Ibid.*, 1904, p. 158.

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4. During this period the respective organizations shall continue the work of organization among non-unionists, and shall have and exercise jurisdiction over those thus organized, with the assistance and support of the American Federation of Labor, and without let or hindrance from any other source.

Since the doctrine of trade or craft autonomy, with certain slight modifications, is the basis for settlement adopted by the American Federation of Labor, we must investigate the validity of a determination upon this basis. Among the unions which form the American Federation of Labor is there any great appreciation of the doctrine of autonomy and does the history of these organizations, or of those unaffiliated, show an effort to preserve it? We must first come to some realization of what is meant by a trade or craft. We may define a craft as an occupation which is conducted with definite tools or machinery upon definite material or materials and involving a peculiar skill requirement. Fellow-craftsmen are men engaged in precisely the same occupations. If we ignore any of these requisites, we immediately change the craft and are involved in conflicts of interests. From the very early history of the trade union movement, or at least from the moment when unions began to organize nationally, we meet, as a rule, not a simple trade union, but a combination of closely related trades, related either because of similarity of technique or because they work upon the same product. In short, for either of these reasons it was realized that division was dangerous and solidarity was advantageous. Thus the Bricklayers and Masons Union from its beginning included these crafts of similar though not identical techniques. The Carpenters and Joiners similarly involved two closely related crafts. The Typographical Union from the beginning of its national organization attempted to control the printing shop. The Machinists, Plumbers, Blacksmiths, Sheet Metal Workers, Iron Moulders included helpers and apprentices, who though in training for the parent craft, have different skill requirements and quite frequently diametrically opposed interests in the craft. The basis for association in these cases is: (1) the influence for evil that an unregulated apprentice and helper system may have upon the parent craft. (2) the ease with which in certain of these crafts the helper may be converted

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into a journeyman. Even the Cigar-Makers Union, which at first sight seems distinctly committed to the craft form and policy, has protested and with success against the formation of distinct and separate Stogie-Makers Unions; and yet any one who is familiar with the technique of cigar-making easily recognizes a wide dissimilarity in skill between the occupations. If we except certain of the Railroad Brotherhood and a few crafts which do not permit of subdivision, it would be difficult to find an important union which included only one kind of skill, or whose members work with identical tools and upon the same material. The basis of organization of even the oldest and most conservative trade unions begins with an amalgamation of crafts based upon a rough similarity of interests and skill requirements. A definition which would fit a majority of the influential trade unions (barring the Railroad Brotherhood, and a few others) would be a combination of workers whose interests are so closely allied that unified collective action is to the advantage of the trades involved. Any attempt therefore, to base a decision in a jurisdictional dispute upon the ground of maintaining trade autonomy is adopting a purely hypothetical supposition of what does exist and of what has existed. An attempt to decide jurisdictional troubles upon the doctrine of trade autonomy is in practice an attempt to maintain the *status quo* in a condition of unstable equilibrium.

Since the old unions have been organized upon the plan of gathering those trades which are closely related in interests, is there any violation of this principle in the formation of industrial unions or trade amalgamations? Is there any break in structural evolution or is there merely a continuity of development? The industrial union and the trade amalgamation have developed as industry has developed. Two factors have conspired to their growth. 1. Increased integration of industry which has resulted in a combination of many processes in one factory or under one management. 2. Equalization and standardization of skill in many occupations due to the introduction of machinery. The industrial union and the trade amalgamation cuts across the grain of many trades and splits and shatters them as it crashes through. But though their structure is antag-

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onistic, the reason for their organization is precisely the same as for the so-called craft unions.

This reasoning does not lead us to the immediate acceptance of the socialist program of complete and immediate industrialization, though it does indicate a tendency towards an ever increasing industrial form. The majority of the unions still solemnly assert the doctrine of trade autonomy even when they violate it most. Furthermore, in many of the unions, except those that have adopted consciously the industrial form, there is still a closer craft interest than industrial interest. The very grave question which confronts the Federation of Labor and the whole labor movement is whether the craft unions and federation can develop enough flexibility of structure to bring the newer types into harmony with the old or whether the industrial form will develop on the ruins of the craft unions and the federation.

Transmitted, March 5, 1913.

AUTHOR'S NOTE

Work upon this monograph was conducted at Johns Hopkins University. The collection of trade-union documents there gathered were the sources used; supplemented by interviews with officials of the unions. My thanks are due to Professors Jacob H. Hollander and George E. Barnett for their guidance.

SOLOMON BLUM.

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VITA

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